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FOURTH EVALUATION ROUND

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

EVALUATION REPORT

SLOVAK REPUBLIC

Adopted by GRECO at its 61st Plenary Meeting
(Strasbourg, 14-18 October 2013)

FOURTH EVALUATION ROUND

TABLE OF CONTENTS

EXECUTIVE SUMMARY

1. Over the past decade, perceptions in the Slovak Republic as to levels of corruption have been rather volatile. After the country's accession to the European Union in 2004, there had been a sharp decrease in the levels perceived. However in 2009, that positive trend in perception had reversed. By 2011, perceptions had returned to 2004 levels - 4.00 on Transparency International's Corruption Perceptions Index. They further fluctuated between 2011 (4.00) and 2012 (4.60). In contrast to a number of other countries, corruption within the judiciary has for years been perceived as being at a higher level than corruption among politicians and perceptions overall are well above the EU average (60% as compared with the 32% EU AVG in 2011).

2. The analysis of the policy and regulatory frameworks demonstrates a high degree of convergence as regards common challenges to be addressed in respect of the three professional groups, i.e. members of Parliament, judges and prosecutors. First and foremost, the need for preventative measures is underestimated by the authorities and substantially heightens vulnerability to corruption. An appropriate strategy for tackling those risks and other issues under evaluation in the Fourth Round would need to be built upon well-articulated and enforceable codes of conduct and conflicts-of-interest standards. The strategy would also benefit from relying on quality initial and on-going training, as well as advice and counselling, including on an individual (confidential) basis. Such measures would aim at firmly entrenching the notions and principles of organisational ethics among the three professional groups and ensuring consistency in the standards' implementation. The extent of corruption risks appears to be clear to the Government, as it acknowledged in its 2012 Manifesto, but political will to accomplish the necessary reforms needs to be further reinforced. The scope and purpose of the reforms are to be made transparent and to respond to the legitimate public concerns and the elevated levels of corruption perception.

3. With specific reference to members of Parliament, insufficient attention paid to the risks posed by corruption undermines public confidence and encourages the persistence of inappropriate "behind-the-scenes" decision-making practices that become increasingly difficult to eradicate. In particular, regulation of parliamentarians' contacts with lobbyists and others with partial interests and the acceptance of gifts and other advantages warrant strong attention. Adequate enforcement of asset declaration and conflicts of interest rules calls for strengthening of the mandate and attribution of supplementary resources to the Parliamentary Committee on the Incompatibility of Functions. Further refinements of the financial disclosure regime appear to be necessary in order to capture financial and business interests of members of Parliament.

4. The low level of public trust and the lack of transparency and accountability within the judiciary, including at the very top level, erode public confidence in the rule of law and demand priority attention. The vulnerability of the judiciary (and to a certain extent of the Public Prosecution Service) to undue political interference is also a matter of concern and is to be remedied, among others, by boosting the independence of the Judicial Council- the key judicial self-governing body - and increasing the transparency of its operation. The enforcement of asset declaration rules would benefit from being further improved: in respect of judges, adequate human and material resources could be made available to the responsible oversight body, and in respect of prosecutors, unimpeded public access to asset declarations and affidavits on auxiliary employment is to be ensured, with due regard to the privacy and security of prosecutors and their family members. The scope of declarations of both judges and prosecutors could be broadened so as to cover liabilities and gifts above a certain threshold.

I. INTRODUCTION AND METHODOLOGY

5. The Slovak Republic joined GRECO in 1999. Since its accession, the country has been subject to evaluation in the framework of GRECO's First (in December 2000), Second (in March 2004) and Third (in February 2008) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (http://www.coe.int/greco).

6. GRECO's current Fourth Evaluation Round, launched on 1 January 2012, deals with "Corruption Prevention in respect of Members of Parliament, Judges and Prosecutors". By choosing this topic, GRECO is breaking new ground and is underlining the multidisciplinary nature of its remit. At the same time, this theme has clear links with GRECO's previous work, notably its First Evaluation Round, which placed strong emphasis on the independence of the judiciary, the Second Evaluation Round, which examined, in particular, the public administration, and the Third Evaluation Round, which focused on corruption prevention in the context of political financing.

7. Within the Fourth Evaluation Round, the same priority issues are addressed in respect of all persons/functions under review, namely:

- ethical principles, rules of conduct and conflicts of interest;
- prohibition or restriction of certain activities;
- declaration of assets, income, liabilities and interests;
- enforcement of the applicable rules;
- awareness.

8. As regards parliamentary assemblies, the evaluation focuses on members of national Parliaments, including all chambers of Parliament and regardless of whether the Members of Parliament are appointed or elected. Concerning the judiciary and other actors in the pre-judicial and judicial process, the evaluation focuses on prosecutors and on judges, both professional and lay judges, regardless of the type of court in which they sit, who are subject to national laws and regulations. In preparation of the present report, GRECO used the responses to the Evaluation Questionnaire (Greco Eval IV (2013) 2E) by the Slovak Republic, as well as other data, including information received from civil society. In addition, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the Slovak Republic from 15-19 April 2013. The GET was composed of Ms Gabriele BAJONS, Head of the department for Internal Audit and Court of Auditors, Ministry of Justice (Austria), Mr Joseph E. GANGLOFF, Deputy Director, US Office of Government Ethics (USA), Mr Ömer Faruk GENCKAYA, Professor, Marmara University SBMYO (Turkey) and Mr Dražen JELENIĆ, Deputy State Attorney General, State Attorney's Office (Croatia). The GET was supported by Mrs Lioubov SAMOKHINA from GRECO's Secretariat.

9. The GET interviewed representatives of the National Council of the Slovak Republic, including its Committees on Mandate and Immunity and on the Incompatibility of Functions, the Chancellery of the National Council and representatives of political parties. The GET also met with members of the judiciary (including the Constitutional Court, the Supreme Court, the Specialised Criminal Court, district and regional courts and the Judicial Council), and the prosecution service of the Slovak Republic (including the General Prosecutor's Office, the Special Prosecution Office, regional and district prosecution offices and the Prosecutors' Board). Moreover, the GET held interviews with the Government Office of the Slovak Republic, the Ministry of Justice, the National Anti-Corruption Unit of the Police and the Judicial Academy. Finally, the GET spoke with representatives of the Slovak Bar Association, Transparency International Slovensko, Alliance Fair-Play, Via Juris and the media.

10. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of the Slovak Republic in order to prevent

corruption in respect of Members of Parliament, Judges and Prosecutors and to further their integrity in appearance and in reality. The report contains a critical analysis of the situation in the country, reflecting on the efforts made by the actors concerned and the results achieved, as well as identifying possible shortcomings and making recommendations for further improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of the Slovak Republic, which are to determine the relevant institutions/bodies responsible for taking the requisite action. Within 18 months following the adoption of this report, the Slovak Republic shall report back on the action taken in response to the recommendations contained therein.

II. CONTEXT

11. Over the past decade, perceptions in the Slovak Republic as to levels of corruption have been rather volatile. After the country's accession to the European Union in 2004, there had been a sharp decrease in the levels perceived. However, due, *inter alia*, to a lack of political commitment to enhance the legal framework, implement deeper institutional reforms and effectively fight corruption,[1] in 2009, that positive trend in perception had reversed; however, by 2011, perceptions had again returned to 2004 levels - 4.00 on Transparency International's Corruption Perceptions Index. They further fluctuated between 2011 (4.00) and 2012 (4.60).

12. In contrast to a number of other countries, corruption within the judiciary has for years been perceived as being at a higher level than corruption among politicians and perceptions overall are well above the EU average (60% as compared with the 32% EU AVG in 2011). This is confirmed by national polls carried out by TI Slovakia and the local Institute for Public Affairs. Low public confidence in the integrity of proceedings, including allegations of misuse of power, nepotism, corruption, lack of transparency and accountability, including at the very top level, have been haunting the judiciary for years.[2] The business community too views corruption as a significant factor in judicial outcomes. According to the 2010 survey of national small and medium-size enterprises conducted by the American Chamber of Commerce, 90% of respondents believed that courts did not support equitable resolution of legal disputes; therefore out-of-court settlements were preferred at any cost.[3] The detachment of the judiciary from the public appears to be significant, and critical comments on its performance or attempts at reform have been considered by judges as an undue influence and breach of autonomy.[4] Furthermore, the judiciary is widely seen to be vulnerable to political interference.[5]

13. As concerns politicians, recurrent corruption scandals have fuelled public frustration and disenchantment (61% of public mistrust, as opposed to 57% EU AVG in 2011). In late 2011, the so-called "Gorila case" erupted in the media with allegations that bribes worth millions of euros had been paid to officials to win public procurement and privatisation contracts in 1998-2006. Former Ministers as well as all four political parties represented in the coalition government at the time were allegedly implicated. The Gorila scandal was perceived by many as a bitter reminder that the unhealthy links between politics and business that thrived in the 1990s may not have been entirely severed.[6]

14. Between 2003 and 2013, five judges and nine prosecutors were prosecuted for corruption offences; however, in the opinion of civil society representatives, the number of corruption cases prosecuted remains low compared to serious allegations appearing in the media.

15. At an opening meeting with the GET, an overview of an ambitious legislative agenda focused on prevention and combating corruption, as outlined in the Government Manifesto of June 2012, was presented by the Deputy Prime Minister. Central aspects of that anti-corruption plan include a new law on public procurement (adopted in March 2013), public administration reform, regulation of political financing and of lobbying and conflicts of interest. As concerns the scope of the Fourth Evaluation Round, a new act amending the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials which is applicable to members of Parliament and certain categories of judges, as well as the Prosecutor General, is in preparation. Amongst other things, it provides for a more detailed asset disclosure. The Slovak Republic is furthermore party to all major international treaties in the anti-corruption field.

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[1] http://www.heritage.org/index/pdf/2012/countries/slovakia.pdf.
[2] Transparency International National Integrity System Assessment. Slovak Republic 2012.
[3] http://www.amcham.sk/publications/brochures.
[4] Recent Slovak Anti-corruption Measures, Matej Kurian, Transparency International Slovakia, May 2012.
[5] http://www.heritage.org/index/pdf/2013/countries/slovakia.pdf.
[6] http://www.economist.com/blogs/easternapproaches/2012/01/scandal-slovakia.

III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT

Overview of the parliamentary system

16. Slovakia is a republic with a parliamentary multi-party system. Its legislature is a 150-seat unicameral National Council, to which members are elected for a four-year term by universal suffrage via a proportional electoral system in one nationwide constituency (*the Hagenbach-Bischoff* method). The election threshold for political parties to enter Parliament is 5% of the total number of valid votes cast; for coalitions of two or three parties, the threshold stands at 7% and for coalitions of at least four parties, it is 10%.

17. The National Council is the sole constitutional and legislative body of the Slovak Republic. It considers and approves the Constitution, constitutional statutes and other legal acts as well as the state budget. Members of Parliament are representatives of citizens. They are not to be bound by any instructions and are to execute their mandate personally, according to their conscience and conviction.

18. A parliamentarian's mandate terminates in the case of resignation or expiry, loss of eligibility for election, dissolution of the National Council, holding of a post incompatible with a deputy's status, criminal conviction, refusal to take the oath or taking it with reservations. If appointed to Government, the office of state secretary or to public office as head of a central state administrative body, the parliamentary mandate is suspended but not terminated.[7]

19. The internal organisation and conduct of work of the National Council are governed by Rules of Procedure.[8] The Council is presided over by a Speaker and four deputy Speakers. Parliamentary organs currently include 19 legislative and supervisory committees. Their composition is approved at the Council's opening session and posted on the web site (http://www.nrsr.sk). The Speaker, deputy speakers and chairs of the committees are elected and recalled by secret ballot.

20. Following the most recent elections of 11 March 2012, the National Council is composed of the following political parties: Direction – Social Democrats (83), Christian Democratic Movement (13), Ordinary People and Independent Personalities (15), Most-Hid, which is a Hungarian minority interest (13), Slovak Democratic and Christian Union – Democratic Party (11), and Freedom and Solidarity (6). Out of those elected, only 24 are women (three are Deputy Speakers but not one chairs a committee).

Transparency of the legislative process

21. The legislative process is governed by the Rules of Procedure and resolutions of the National Council[9]. The right to take legislative initiative is conferred on a deputy, a committee and the Government. Bills introduced by the Government – which represent roughly 80% of all laws adopted – are subject to inter-institutional reviews and public consultation. The reviews are carried out with the bodies and organs which are concerned by the bill or for which it sets out specific tasks.[10] Public consultations are conducted by an initiating authority by placing the bill on the Portal of Laws and Regulations maintained by the Ministry of Justice. Bills introduced by a deputy or a committee are subject to consultation as described above following their submission to the Government for opinion. All bills under discussion in Parliament, as well as those already approved in the third reading (i.e. before their publication in the Official Journal), are placed on its web site within three days of submission[11]; public comments therefore can be forwarded

[7] Article 77(2) of the Constitution and Article 5(8) of the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials No. 357/2004, as amended by Constitutional Act No. 545/2005.
[8] Act of the National Council No. 350/1996 on Rules of Procedure as amended.
[9] Namely, Resolution No. 19/1997 Coll. L on "Legislative rules of law-making".
[10] Pursuant to Section 13(3) of the Legislative Rules of the Government of the Slovak Republic.
[11] By virtue of Freedom of Information Act No. 211/2000 Coll. of Laws.

directly to the committee concerned or individual MPs. The on-line publication of bills and supporting materials has been facilitated by the introduction of a rule in November 2008 by virtue of which only electronic documents may be presented to Parliament.

22. Sessions of the National Council are generally public, the attendance only being limited by the number of seats reserved for visitors. The debates on the national budget, tax matters and fees are always public. A session or part-session may be held *in camera* only if a state[12], official or commercial secret is involved or a request to do so is made by three fifths of the Council's members (option that has not been resorted to so far). Voting may be public or secret,[13] and resolutions are passed, as a main rule, by a majority of the members present (76). A verbatim record of each session is prepared, indicating, *inter alia,* the names of speakers and voting results, and made available promptly on the Parliament's web site. Each session is furthermore audio-recorded and web cast, and each daily sitting is outlined in a summary.

23. Committee meetings are open to the public on the same grounds as above. The Rules of Procedure provide that the meetings of the Mandate and Immunity Committee and of special control committees are to be held *in camera* at all times, whereas, for the sake of preventing conflicts of interest and safeguarding the public interest, those of the Committee on the Incompatibility of Functions are to be conducted openly. Committees are free to invite specialists and other persons but their attendance at closed meetings requires the committee's consent. Voting is public and, except for cases stipulated by the Constitution, resolutions are passed by a majority of members present. The committees' proceedings are recorded in the minutes.

24. The transparency of the legislative process in the Slovak Republic is meant to be assured by legal provisions and government regulations providing for openness of parliamentary sessions and committee meetings, holding of public consultations and guaranteeing access to public information. The GET found that during the initial phase of this process there is a meaningful and inclusive period for commenting on the legislation proposed, during which the first draft and comments are made available to and discussed by the public. Also, when the legislation is first proposed, deputies are expected to disclose any conflicts of interest. However, the decision to refrain or not from voting because of a conflict or other reason is personal to the Member concerned.

25. Following this initial phase, the transparency of the legislative process is however diminished, and corruption vulnerabilities arise, particularly due to the lack of attention to controls of lobbying activities. Concerns were expressed on-site over the practice of proposing changes and amendments altering the overall thrust and scope of laws shortly before second reading. These modifications typically occur within a time frame during which there is no formal mechanism for promoting transparency of legislative developments and no opportunity for meaningful public comment on issues that may emerge, such as impact on a particular geographic or economic sector. Notably, it is after the initial, transparent, public-comment phase that third party contacts with deputies are most likely to occur. These contacts are not regulated in terms of disclosure or source. The situation is compounded by the lack of standards defining the appropriate conduct of members of Parliament, the lack of clarity on the concept of lobbying (which was often raised during discussions with the GET), the insufficient level of detail on financial disclosure forms for effective identification of possible lobbying influences, as well as the absence of *ad hoc* notifications of conflicts of interest. When contrasted with the transparent and inclusive initial phase, vulnerability to corruption and inappropriate lobbying activity during the subsequent informal and closed decision-making phase is

[12] E.g. pursuant to the Defence Intelligence Service Act No. 198/1994 Coll. or the Protection of Secret Matters Act No. 215/2004 Coll.

[13] Pursuant to Section 39(8) of the Rules of Procedure, secret voting shall take place in cases stipulated by the Constitution (i.e. election of the Speaker, deputy speakers and chairs of committees) or by law or when so resolved by the Council without debate.

apparent and underscores the importance of limiting possibilities for inappropriate influence. Failure to address the risks posed by lobbying and other third party influence not only cultivates inappropriate decision-making processes that become increasingly difficult to eradicate but also undermines public trust in the transparency of the legislative process. GRECO takes note of the bill on lobbying which is currently undergoing a first reading in Parliament. It is reported that it would not only circumscribe the duties of lobbyists and lay down the conditions for performing lobbying activities, but also regulate MPs' conduct in relation to third parties. Although this is a timely and welcome development, it remains to be seen whether the declared goals of the bill are maintained in the adopted act. In view of the foregoing, **GRECO recommends 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.** In addition to the upcoming law on lobbying activities, such standards may, for example, be articulated in a Code of Conduct, the adoption of which is recommended in paragraph 32 below, as well as covered, in explicit terms, by the rules on conflicts of interests and asset declarations.

Remuneration and economic benefits

26. Members of Parliament are expected to work full time, and receive a salary that is three times the national average nominal monthly salary of the previous year, reduced by a factor that varies between 0.05 and 0.15 (depending on the public administration budget deficit to GDP ratio) that is announced by the European Commission (Eurostat) in April of the year for which the salary is calculated.[14] In December 2012, the national average nominal gross monthly salary was EUR 786.00. Over the last two years deputies' salaries have been frozen at the 2011 level.

27. Deputies who exercise specific duties receive monthly allowances: Speaker of Parliament - EUR 497.91, Deputy Speaker - EUR 331.94, a committee chair - EUR 165.97, and a committee vice chair - EUR 82.99. Moreover, subsistence and additional allowances are provided to cover the costs of exercising a mandate ("lump sum allowance"). They amount to 1.8 times the national average nominal monthly salary of the previous year for deputies who permanently reside in the Bratislava region and 2.1 times for those who do not. Those with a permanent residence outside the Bratislava region are provided with accommodation at a facility owned by the Parliament's Chancellery or reimbursed for the use of accommodation recommended by it. When travelling in connection with parliamentary duties, accommodation expenses are reimbursed on presentation of a receipt. Council resolutions fix the level of compensation to be paid for travel abroad. Travel on the national railway network is free of charge.

28. A member of Parliament is furthermore provided with an office and may recruit assistant(s), on condition that the annual expenses for both do not exceed 2,7% of the national average nominal monthly salary for the previous year. A personal computer and a printer are also provided. A Member is obliged to report operational expenses such as heating, cleaning, telephone/Internet connection. Moreover, in addition to employment contracts concluded between him/her and the assistant(s), monthly invoices are to attest the services provided by the latter on the basis of a specification of work certified by the deputy's signature. If operational expenses and the assistants' work are not reported in a proper manner and within specified time limits, an MP loses his/her right to reimbursement. As financing from private sources is prohibited, office expenses may only be covered from public funds.

29. The information on deputies' salaries and other entitlements is published on the National Council's web site. The effective use of official resources (by the Council's

[14] Article 2(1-2) of the Act of the National Council of the Slovak Republic No. 120/1993 Coll. on salary conditions of some constitutional officials as amended.

Chancellery) is verified by the Ministry of Finance pursuant to the 2001 Financial Control and Internal Audit Act; it is also regulated - albeit indirectly – by internal parliamentary rules[15] setting up conditions for reimbursing the operational expenses of MPs' offices. In the course of the visit, no concerns were raised with the GET due to the allegedly limited scope for manipulation and/or misuse.

Ethical principles and rules of conduct

30. Several acts define the ethical principles and rules of conduct applicable to members of Parliament: the Constitution (independence, immunity, freedom of speech, incompatibilities with other public offices), the Criminal Code (prohibition of corruption, trading in influence, abuse of office, disclosure of classified information), the Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials (regulations on conflicts of interest, accessory employment, asset declarations, gifts) and the Parliament's Rules of Procedure (maintenance of order in the Chamber). However, no single document sets out the standards of conduct in a comprehensive manner nor covers the multiple dimensions of parliamentary duties.

31. The discussions on site underscored a lack of recognition of the value of well-formulated, publicly available standards – in the form of a Code – to define the appropriate conduct expected of a member of Parliament. This stems from the fact that ethics are considered a matter of personal integrity (i.e. parliamentarians are best guided by personal "moral compasses") and that the non-binding nature of a Code largely deflates its impact. Throughout the interviews, the deputies did not readily accept the distinction made by the GET between personal ethics – in moral terms – and organisational ethics. Additionally, they resisted the notion that a central objective of promulgation and implementation of the standards included in a Code is to promote public confidence in the execution of parliamentary duties and Parliament as a whole. Concomitantly, there was little interest in training on ethical matters; the GET was told that no staff was available to deliver such training at the time and that meaningful training was difficult given that the system was so informal.

32. Although, as stated by the Deputy Prime Minister, corruption of members of Parliament is not perceived to be a significant issue and there is little pressure for reforms to address the ethics dimension inherent to this function, a "self-regulated" approach to ethics and a sole reliance on the notions of personal integrity cannot be considered an adequate measure to prevent vulnerabilities to corruption. To effectively address the risks of corruption, specific and clear standards of conduct, articulated by means of a Code of Conduct developed by Parliament itself, would be beneficial. Rooted in the existing legal acts, the Code would provide guidance on the expected ethical behaviour and be reviewed in light of evolving ethical demands. Awareness of the Code and consistency in its implementation can only be ensured if it is equipped with an enforcement mechanism (supervisory body and sanctions) and accompanied by initial and on-going training, individual advice and counselling (including of a confidential nature). In addition to creating clear expectations of appropriate conduct, the development of ethical standards by members of Parliament themselves would promote an increased sense of responsibility and ownership and acknowledge that public perception of open, non-biased law-making and decision-making in Parliament is essential to a democratic society. In view of the foregoing, **GRECO recommends 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] Resolution No. 1222 of 15.12.2000 as amended.

Conflicts of interest

33. The Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials (PPI) is applicable to members of Parliament and regulates (i) conflicts of interest; (ii) incompatibilities and accessory activities; (iii) gifts and (iv) declaration of offices, employment positions, activities and economic standing. Conflicts of interest denote situations where, in the performance of office, a public official, including a member of Parliament, "prefers personal over public interest".[16] The PPI obliges a deputy to seek and protect the public interest and not use his/her office, powers appertaining thereto or information acquired in relation therewith to his/her benefit, or that of his/her close relatives[17] or other natural or legal person. When discussing a matter in which s/he has a vested interest, a deputy is to declare it prior to making a statement,[18] including if it may bring material profit to a political party or movement of which s/he is a member, provided that this fact is known to him/her. Conflicts of interest are registered by the convening authority by way of their inclusion in the minutes or records. The authorities stress that this procedure applies to the National Council's plenary and committee meetings. Supervision over compliance with the PPI is entrusted to the Committee on the Incompatibility of Functions of the National Council.

34. While well-established professional and personal relationships may provide a solid foundation for efficiency and co-operation in meeting the challenges of effective governance, they also highlight the need for reinforced preventative measures and candid acknowledgement that conflicts of interest – and perceived vulnerability to such conflicts – may also undermine good governance. Although the PPI contains a definition of "conflicts of interest" and imposes an obligation to declare personal interests at the outset of a debate, up until now this has had no impact on the deputies' voting rights as the decision to refrain or not from voting due to a conflict of interests has been personal to the Member concerned. Furthermore, failure to declare a personal interest in a particular matter has not been subject to sanction up until now[19]; therefore motivation to meet this requirement amongst deputies has remained weak. GRECO is satisfied that both gaps will soon be closed by a series of amendments to the PPI. However, in addition to a solid legal framework, effective approaches to mitigating risks posed by conflicts of interest and reinforcing public confidence are to include enhanced awareness through measures such as the availability of guidance on the application of rules informed by practical examples of what constitutes a conflict of interests, frameworks for pertinent training, advice and counselling and enforcement mechanisms. As most of these concerns are already captured by the recommendation included in paragraph 32 above, GRECO refrains from issuing a separate recommendation on this matter. It also calls upon the Committee on the Incompatibility of Functions to take all requisite measures to ensure a vigorous enforcement of the new legal provisions once they enter into force.

Prohibition or restriction of certain activities

Incompatibilities, accessory activities and post-employment restrictions

35. The incompatibility of certain offices, jobs and activities with the parliamentary mandate is regulated firstly by the Constitution, which stipulates that the post of a member of Parliament is incompatible with that of a judge, prosecutor, public defender of

[16] Section 3(4) PPI. "Personal interest" is defined as the one bringing material profit or other benefit to the public official or his/her close relatives, and "public interest" is understood as bringing the same to all citizens or a large number thereof.
[17] The term "close relative" of a public official is understood to comprise the official's spouse and minors living in the same household (See Section 7(1)(e) PPI).
[18] Section 6 PPI.
[19] Penalties consisting of a fine equal to twelve monthly wages and termination of a mandate may only be imposed for failure to safeguard the "public interest" as defined by the PPI and to observe restrictions on the acceptance of gifts, negotiation of business contacts with and acquisition of property from the state – Article 9 (10) (e) PPI.

rights, member of the Armed Forces, Armed Corps and European Parliament.[20] Furthermore, as per Section 5 PPI, parliamentarians, as public officials, may not form the statutory body or be a member of the statutory body, a member of a steering, control or supervisory body of a legal person established to conduct business activities (general or members' meeting excepted). This requirement does not apply to (a) membership in a body of a legal person which results from the law or discharge of public office; (b) representation of the state or National Property Fund in a legal person/its body, when the former participates in the latters' capital; (c) the representation of a municipality or a higher territorial unit in bodies of legal persons under the same conditions as above; and (d) situations where legal persons conduct business activities but no remuneration is paid for membership thereof. Moreover, there is a ban on carrying out business activities, except for professions which may only be exercised by a natural person under conditions stipulated by law. Within 30 days of assuming office, a deputy is to terminate such office, profession or activity or to perform a legal act leading to its termination specified by law. The planned amendments to the PPI will further unify the restrictions regime by abolishing financial awards for executing functions in a legal entity pursuing business goals. Information on lawful accessory activities of a member of Parliament is disclosed to the public via his/her annual declarations.

36. As concerns post-employment restrictions, parliamentarians are expressly excluded from the scope of Section 8 PPI, which imposes a one year "cooling-off" period after holding a public office. Although no specific concerns were raised on-site as regards "revolving doors", i.e. situations where deputies move to the private sector, GRECO encourages the authorities to assess vulnerabilities arising from the absence of post-employment restrictions specifically for members of Parliament with a view to their possible introduction on the same terms as for other public officials.

Gifts

37. In his/her capacity as a public official, a member of Parliament may not solicit, accept or induce other persons to give him/her gifts or receive other advantages related to the performance of office, except for customary gifts.[21] The authorities admit that, up until now, the definition of gifts, the permitted value thresholds per item/donor/year and the procedure for disposing of or returning unacceptable gifts have not been clarified. Some of these deficiencies are expected to be rectified by the planned amendments to the PPI. In particular, the term "gift" will be given a legal definition, the maximum value for acceptable gifts equivalent to EUR 50 will be set out, and the annual reporting of gifts received by deputies in their private capacity and of rented and lent objects used by them, the value of which exceeds EUR 4 000, will become mandatory.

38. Members of Parliament are furthermore prohibited from accepting bribes by virtue of Articles 329(2) and 333(2) of the Criminal Code (aggravated passive and active bribery in connection with the procurement of a thing of general interest[22]). These provisions make it a criminal offence for a public official, in connection with the procurement of a thing of general interest, to receive, request or accept the promise of a bribe, and for any other person to give, offer or promise a bribe to a public official, for him/herself or another person, either directly or through an intermediary. Such offences carry a sentence of up to twelve years for a public official and up to five years for an individual. The authorities report that no cases of active or passive bribery committed by members of Parliament have been registered in the last two decades.

[20] Article 77 of the Constitution.
[21] Section 4(2)(b) PPI.
[22] Article 131 of the Criminal Code defines "a thing of general interest" as "an interest that transcends the framework of individual rights and interests of individuals, and is important for society". The overview of the court practice confirms that this concept is broad and potentially covers all bribery offences regardless of whether the act involves a breach of duty.

39. GRECO welcomes the on-going legislative reform one of the aims of which is to eliminate known lacunae related to the acceptance of gifts by members of Parliament. It appreciates that it is intended to clarify by law the notion of "gift" and to establish a reasonable threshold for acceptable courtesy gifts. Furthermore, gifts above a certain value received by deputies in their private capacity, along with the property used but not owned, such as residences and vehicles, will be disclosed via annual declarations of assets. Nevertheless, a successful and consistent implementation of the new legal framework would depend to a large extent on the "contextualisation" of the relevant provisions applicable to a broad category of public officials by placing them within the specific operational format of the National Council. This would necessitate, in particular, clearly determining the conduct expected of a member of Parliament, establishing internal procedures for valuation, reporting and return of unacceptable gifts and designating a responsible oversight body. Additionally, full understanding of and compliance with obligations pertaining to the acceptance of gifts can only be achieved in an efficient manner if quality training, advice and counselling is made available both at the institutional and individual levels. Consequently, in order to establish clear standards for the conduct expected of a member of Parliament, **GRECO recommends 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.** Concerning dedicated training, advice and counselling, it has already been subject to a recommendation in paragraph 32 of this Report.

Contracts with State authorities and financial interests

40. Several restrictions contained in the PPI regulate deputies' contacts with state authorities. First of all, by virtue of Section 4 PPI, members of Parliament and their relatives are banned from acquiring property from the state or National Property Fund other than in a public tender or auction. This provision extends, *inter alia*, to the financial market products, such as stocks and shares. Secondly, deputies are prohibited from mediating for themselves, their close relatives, other natural or legal persons, unless such mediation is part of their official duties, business contacts with: (1) the state; (2) a municipality; (3) a higher territorial unit; (4) a state company, state fund, the National Property Fund or other legal person established by the state; (5) a budget organisation or contribution-funded organisation established by a municipality, a higher territorial unit or other legal persons with capital participation of the state, the National Property Fund, a municipality or a higher territorial unit. Thirdly, as was already noted above, there is a prohibition on the performance of business activities, albeit with certain exceptions.

41. Apart from the aforementioned rule on acquiring property from the state or National Property Fund solely through a public tender or auction, there are no restrictions on the holding of financial interests by members of Parliament. Nevertheless, whenever these interests attain a certain threshold (currently, 35-times the minimum wage or EUR 25 000), they are to be disclosed by means of an annual declaration of assets.

Misuse of confidential information

42. The misuse of confidential information is, firstly, subject to regulation by Article 79 of the Constitution which stipulates that a member of Parliament may refuse to testify in relation to matters about which s/he has learnt while in office, even after s/he ceases to be a parliamentarian. Secondly, pursuant to Section 74 of the Protection of Secret Matters Act, members of special control committees of the National Council are to keep secret the facts which became known to them whilst exercising their duties, including after their function is terminated. Lastly, jeopardising the safety of classified, confidential and restricted information carries criminal liability in accordance with Articles 319-320 and 353 of the Criminal Code. Additionally, the Freedom of Information Act governs the generally accessible and restricted information and lays out rules aimed at its protection.

Misuse of public resources

43. Besides criminal law provisions on abuse of office (Article 326 of the Criminal Code) which carries a sentence of up to five years, there are no rules on the misuse of public resources by members of Parliament. Although possibilities to directly misuse public funds for deputies' personal gain appear to be scant (accommodation and travelling expenses incurred in connection with a parliamentary mandate and office costs are reimbursed provided they are documented with bills, invoices, receipts and employment contracts), the introduction of targeted measures as a supplementary deterrence against possible misuse warrants consideration by the authorities.

Declaration of assets, income, liabilities and interests

44. Parliamentarians are to submit declarations of offices, employment positions, activities and economic standing within 30 days of assuming office and to annually indicate: (a) compliance with the previously mentioned provisions on incompatibilities with public office; (b) professions performed and public and business activities carried out concurrently with a deputy's mandate; (c) offices held and income/benefits received in other state authorities, local and regional self-government bodies, bodies of legal persons, including those conducting business activities; (d) total income in the preceding year; and (e) "economic standing", including that of a spouse and children (minors) living in the same household. "Economic standing" refers to: (1) ownership of immovable property, including apartments and non-residential premises; (2) ownership of movable property, the customary price of which exceeds 35-times the minimum wage (i.e. EUR 25 000); (3) ownership of proprietary rights or other proprietary value, the nominal value of which exceeds 35-times the minimum wage; and (4) liability, the object of which is pecuniary delivery of the same nominal value as above.[23] Appended to the declaration is a copy of an annual tax return. Failure to comply with the above requirements is subject to progressive fines and, ultimately, loss of mandate. Declarations are submitted to the Committee on the Incompatibility of Functions and published on the Parliament's website without some personal details and data on the declarants' economic standing.

45. The planned amendments to the PPI are meant to change significantly the present disclosure regime. Specimen declarations, along with explanatory notes, will become appendices to the law, enhancing legal certainty and reducing the scope for interpretation, to the effect that members of Parliament could no longer revoke the excuse of lack of understanding of the particular obligation. The scope of disclosure will be broadened: the reporting obligation will be extended to all income exceeding EUR 100 annually and subject to the Income Tax Act; the reporting threshold will drop to EUR 10 000; and more detailed information on each property type (i.e. type of a vehicle, name of a bank) will be sought. As concerns property status, it will widen to include rented or lent objects used by the deputies as well as gifts received in private capacity above EUR 4 000. The concept of "property increase" will be defined, given that failure to declare its origin carries the most severe punishment (loss of mandate). Lastly, the duration of proceedings will extend from 60 to 120 days, after which they will terminate automatically.

46. The discussions on site underscored a broad recognition by the Slovak authorities of several weaknesses inherent to the present disclosure regime. The use of assets of others by members of Parliament is one such issue requiring attention. The GET was told that deputies can – and do – routinely use the assets of others, including vehicles and residencies, but are not obliged to disclose them through annual declarations or gift regulations. Obstacles to meaningful financial disclosure are inherent to the concepts that gifts received in private capacity are not categorised as "gifts" under the PPI and the "use" rather than actual acceptance of objects of substantial value does not warrant mandatory notification. While the imminent closure of a number of gaps through

[23] Section 7 PPI.

legislative changes is a welcome development, it is important that all aspects of financial disclosure be adequately captured by the reform. For example, the current declaration form is insufficient for the effective identification of possible lobbying interests and the disclosure of outside relationships and financial interests that do not fit squarely into the "lobbying" context; nor do they include disclosure of other outside relationships and financial interests that may also create a potential conflict of interests. The GET was particularly concerned that deputies are not required to disclose the use of assets in which they have only a nominal ownership interest. Examples cited to the GET referred to the use of vehicles owned by corporations in which parliamentarians have a nominal (1%) ownership interest. This loophole is to be closed. Therefore, to be meaningful, it would be beneficial for a financial disclosure system to encompass regular notification of outside relationships, private-sector equity interests, partnerships and other business arrangements as well as domestic and foreign travel paid by third persons, benefits, hospitality and sponsorships obtained from domestic and foreign entities above a certain threshold. In light of the foregoing, **GRECO recommends 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.** It may furthermore be prudent to consider the reporting of certain assets and financial arrangements by deputies' close family members.

Supervision and enforcement

Supervision over additional employment and declarations of offices, employment positions, activities and economic standing

47. As already mentioned, supervision over compliance by parliamentarians with the rules on additional employment and declarations of offices, employment positions, activities and economic standing is vested in the Committee on the Incompatibility of Functions. The Committee consists of 15 members who are elected based on the principle of proportional representation of political parties and movements in the National Council. Its meetings are public and decisions are adopted by a three-fifth's majority of the members present. The Committee is quorate if at least half of its members are present. Proceedings may be initiated *ex officio* (based on its own findings) or in response to a duly justified and properly signed petition.[24] In case a petition triggers the launch of proceedings, the Committee must inform the petitioner thereof. The Committee responds to queries from the public in the manner and scope laid down in the Freedom of Information Act.

48. The Committee is authorised to compare the contents of the filed declaration with those submitted in previous years, as well as with the appended copies of annual tax returns. While checking the completeness and veracity of declarations, the Committee may demand explanations from the deputy concerned and, when these are deemed to be insufficient, request that proceedings be launched under a special regulation (no such proceedings however were initiated between 2009 and 2013). Since the PPI does not impose a requirement to keep a register of declarations, only an auxiliary register is kept.[25] If holding an office or performing a job or activity is found to be incompatible with a deputy's status, the Committee's decision is to include an obligation to resign from office or terminate such job or activity without delay. Within 30 days of the final decision, a parliamentarian is to act on the decision and notify the Committee thereof. The Committee has 60 days to decide on a matter and if an infringement is found, its decision must include the rationale and instruction on the applicable remedy, including a penalty.

[24] Section 9(2) PPI.
[25] It includes the type of public office, first name, surname, and the date of fulfilment of the obligation to declare.

The Committee's decision becomes valid after 30 days, whereas the time-limit for the decision's enforcement is three years.

49. Violations can carry fines and lead to loss of mandate. Fines include: (a) a fine equal to one monthly wage – for failure to submit a declaration within the prescribed deadline*;* (b) a fine equal to three monthly wages – for the provision of incomplete or incorrect information on a deputy's economic standing or that of his/her spouse or children (minors) living in the same household; and (c) a fine equal to six monthly wages – for holding an office, job or activity incompatible with the mandate. A mandate may be terminated if a final decision in a previous proceeding identifies a failure to meet an obligation or a breach of a restriction, the submission of incomplete or incorrect declaration or failure to demonstrate the origin of property gains. In such instances, the Committee's decision has additionally to be approved by a three-fifth's majority of the National Council's membership. All decisions imposing a sanction can be appealed before the Constitutional Court and, once they enter into force, are published on the Parliament's web site.

50. Between 2009 and 2011, 121 proceedings were initiated by the Committee for late submission or non-submission of declarations by members of Parliament, out of which 22 proceedings were stayed, 12 are still pending and 5 are pending before the Constitutional Court. Penalties – predominantly fines - have been imposed in 67 cases. In 2012, 66 proceedings were initiated, 49 were decided, 14 were closed and 3 are still pending. So far in 2013, 65 proceedings have been initiated, fines were imposed in 58 cases of which 8 are pending before the Constitutional Court, one case is pending and 6 have been closed.

51. The aforementioned high number of proceedings initiated for late submission or non-submission of declarations is indicative of two cumulative flaws: a lack of will on the part of deputies to abide by the PPI and an insufficient understanding and awareness of the relevant rules. Both of these issues are already addressed by the recommendation presented in paragraph 32 above, i.e. to develop a Code a Conduct as a means to promote an increased sense of responsibility among parliamentarians and to provide training, advice and counselling on aspects crucial for the performance of their parliamentary duties. As concerns, the quality of supervision over assets declarations exercised by the Parliamentary Committee on the Incompatibility of Functions, it can be qualified as purely formalistic and limited to comparative checks of data submitted in different years. This is explained by both limited human and material resources disposed by the Committee, as well as its rather restricted mandate. To remedy these deficiencies and, more importantly, to meet the challenges of the substantially modified financial disclosure regime under the soon-to-be-revised PPI, the Committee's powers and capacities would need to be substantial reinforced. Both of these issues are further dealt in the paragraph below. Turning to the level of sanctions provided for violations of rules on accessory employment and asset declarations, they can be assessed as being generally adequate. GRECO is moreover satisfied that a fine of three monthly salaries will soon be introduced for the submission of a false declaration, and the repeated imposition of certain fines will be made possible.

Supervision over conflicts of interest and other duties and restrictions imposed by the PPI

52. Observing compliance with the conflicts of interest rules and other duties and restrictions emanating from the PPI has also been attributed to the Committee on the Incompatibility of Functions. However, in comparison to the supervision of asset declarations and auxiliary employment, monitoring of this particular area has been exercised in an even less assertive manner. For example, no information has been made available on the proceedings initiated for violations of the conflicts of interest rules and

other restrictions imposed by the PPI[26] or any other steps taken by the Committee to evaluate and deter risks emanating from existing and potential conflicts of interest facing members of Parliament.[27] While GRECO already drew attention to the important reforms that are currently under way and which aim at boosting compliance with the conflicts of interest rules (i.e. withdrawal from voting in cases of conflicts of interest and introduction of a fine equivalent to a deputy's monthly salary for failure to declare a personal interest), it remains firmly convinced that effective enforcement of the existing and forthcoming rules can only be sustainable provided that the responsible oversight body exercises its mandate in a proactive manner and is equipped with commensurate resources and tools. In light of the analysis contained in paragraphs 51 and 52, **GRECO recommends 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.**

Other duties

53. Each parliamentarian is additionally subject to the disciplinary powers of the National Council for a major breach of the Member's oath.[28] The disciplinary sanctions that apply are an apology, a reprimand, a fine and proposed resignation. They are imposed by the Mandate and Immunity Committee within one year of the occurrence of the offence. The principles of formation of the Mandate and Immunity Committee are the same as those of the Committee for the Incompatibility of Functions, except that meetings of the former are to be held *in camera* at all times. In the course of the visit, the GET was not made aware of any disciplinary proceedings initiated against members of Parliament for any misconduct falling within the scope of this Evaluation Round.

54. Deputies are furthermore liable to criminal sanctions for offences such as bribery, abuse of office, trading in influence and disclosure of classified information. A deputy who has committed a corruption offence or an aggravated abuse of office under Sections 326 and 328-336 of the Criminal Code[29] is to be tried by the Specialised Criminal Court. Sanctions for such offences include fines or a prison sentence of up to 20 years. The authorities indicate that no such criminal case has been initiated against a member of Parliament in recent years.

55. A member of Parliament enjoys functional immunity in that s/he may not be prosecuted for statements made or voting in the National Council or its bodies. Functional immunity continues beyond the duration of a parliamentary mandate.[30] Deputies' personal immunity from criminal proceedings and proceedings concerning minor offences ("misdemeanours") was abolished as of 2012[31] and is commended by GRECO.

[26] Despite the existence of penalties (fines and loss of mandate) foreseen for failure to safeguard the "public interest" and to observe restrictions on the acceptance of gifts, negotiation of business contacts with and acquisition of property from the state – see footnote No. 17 above.
[27] It is only during the last stages of the drafting of the report that the GET was informed of 2 proceedings initiated for violations of the conflicts of interest rules in 2013.
[28] Sections 135-139 of the Rules of Procedure.
[29] Criminal offences of passive bribery (Sections 328-331), active bribery (Sections 332-335) and trading in influence (Section 336).
[30] Article 78(1-2) of the Constitution.
[31] As per Law No. 79/2012 Coll. and the Constitutional Act No. 232/2012.

Advice, training and awareness

56. At the beginning of a new parliamentary term the Parliamentary Institute[32], which is a part of the Chancellery of the National Council and which consists of nine persons, provides general information and basic training, predominantly on procedural rules, to newly elected deputies. Additionally, all deputies are expected to familiarise themselves with the rules governing the exercise of their mandate by consulting the pertinent statutes and laws which are all in the public domain. The same applies to the general public which has unimpeded access to laws and deputies' asset declarations on the Parliament's web site.

57. In its earlier observations concerning ethical principles and rules of conduct, the GET already emphasised the insufficient level of awareness among members of Parliament of the many challenges facing them in the course of their parliamentary activities as well as their private undertakings. Accordingly, GRECO has recommended setting out clear, formal, enforceable, publicly-stated standards for professional conduct in the form of a Code of Conduct and prioritising initial and on-going training, advice and counselling as an essential complement to the Code and to implementation of duties and restrictions applicable to a member of Parliament. GRECO renews its invitation to the authorities to proceed with the swift implementation of the above recommendation, the main objective of which is to strengthen the organisational ethics among members of Parliament and to ensure that formal rules governing the exercise of public office always prevail over personal informal relationships and partial interests.

[32] Pursuant to Section 144 of the Rules of Procedure.

IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES

Overview of the judicial system

58. The system of courts in the Slovak Republic consists of the Constitutional Court and ordinary (general) courts, and its foundations are laid down in the Constitution. Article 141 thereof provides that the administration of justice is carried out by independent and impartial courts, independently of other state bodies.

59. The Constitutional Court is an independent judicial body composed of 13 judges which decides, *inter alia*, on the compatibility of laws, government ordinances and generally binding legal regulations with the Constitution, constitutional laws and international treaties acceded to by the Republic. Its final decisions are binding.

60. Ordinary courts are governed by the Constitution and the Act on Courts (AC).[33] They include 54 district courts, 8 regional courts, the Specialised Criminal Court (which has the status of a regional court and adjudicates on severe criminal violence, corruption-related cases, as well as cases involving senior public officials, including members of parliament and government, judges, prosecutors and heads of public agencies) and the Supreme Court. District courts and the Specialised Criminal Court are first instance courts. Regional courts decide on appeals, and act exceptionally as first instance courts on administrative matters. The Supreme Court, consisting of 84 judges, is an appellate and appellate review instance but may exceptionally serve as a first instance court on administrative matters too. Cases are heard by a single judge or a panel of judges, which in criminal cases may also include lay judges.

61. Judges in the Slovak Republic form a single judicial corpus. In March 2013, there were approximately 1347 judges (499 male and 848 female). Additionally, some 12 judges had been temporarily assigned to other institutions.

62. Basic principles of judicial independence are laid down in the Constitution and in the Act on Judges and Lay Judges (AJLJ).[34] The Constitution states that judges are independent in the exercise of their function and bound solely by the Constitution, constitutional laws and relevant international treaties.[35] Constitutional safeguards include: appointment for life, a prohibition for a judge to be a member of a political party or movement and pursue an incompatible activity, a ban on recalling or transferring a judge against his/her will, judicial immunity. The AJLJ additionally stipulates that a judge is independent in the performance of the authority of court, and interprets laws according to his/her best knowledge and conscience. S/he has to decide impartially, fairly, without undue delay and only on the basis of facts discovered in accordance with law. A judge is to refuse any interference, coercion, influence or request, including from political parties and movements, public opinion and the media. Judges are protected by law from unauthorised interference in their actions. In certain cases, a judge is bound by a decision of a higher instance court.

63. In May 2011, amendments to the AJLJ came into effect, *inter alia*, strengthening some competences of the executive and legislative. Thus, the Minister of Justice received the authority to remove court presidents without giving reasons and the latter lost the possibility to apply for a review of the legality of such decisions by a general court. The amendments also provided for a new composition of Selection Commissions (see further below), introduced changes in the disciplinary proceedings and abolished the system of traineeships in courts. GRECO notes that the removal from office of court presidents may be performed by the Minister of Justice without consulting the judicial self-governing bodies (see further below) or a president of a higher court. Moreover, the current

[33] No. 757/2004 Coll. of 9 December 2004.
[34] No. 385/2000 Coll. of 5 October 2000.
[35] Article 144(1) of the Constitution.

legislation does not prescribe that such a decision must be reasoned and based on the outcome of appropriate removal proceedings. This raises concerns in respect of judicial independence. Consequently, **GRECO recommends that decisions to remove court presidents be reasoned, that they follow appropriate removal proceedings and are made subject to judicial review.**

64. Bearing in mind the low level of public trust in the judiciary (29% in 2011) and high corruption perception levels within courts, in its Manifesto of June 2012, the Government announced the drawing up of a new strategy aimed at the stabilisation and modernisation of the judicial system, as a basis for the adoption of a new law. Some of the goals of the Manifesto are: to restore confidence in the judiciary and to provide the public with information on the overall performance of courts, to stabilise the judiciary in institutional and personnel terms and to ensure the proper functioning of the judiciary. Concerning independent decision-making by judges, both independence from other branches of power and from court management and administrative bodies are to be improved, in line with recommendations issued by such international institutions as the Venice Commission and the International Association of Judges. In this light, legislative changes introduced by the 2010-2011 reform may be revisited.

65. In its pronouncements in respect of other countries, GRECO already stressed that judicial independence and the impartiality of judges are fundamental principles in a State governed by the rule of law; they benefit the citizens and society at large as they protect judicial decision-making from improper influence and are ultimately a guarantee of fair court trials. It is also to be recalled that, in its First Evaluation Report on the Slovak Republic adopted in 2000, GRECO already drew attention to the unsatisfactory performance of the judicial system. At that time, the adoption of a broad range of measures was recommended, primarily in order to ensure that the judiciary ceased to be one of the most corrupt national institutions.[36] Regrettably, not much progress seems to have been achieved in this area despite the reforms carried out since 2001. GRECO fully supports the Government's strategy aimed at strengthening judicial independence both in law and in practice and urges that efforts to reform the judicial system so that both the judicial processes and judges restore high levels of public trust are pursued vigorously.

Judicial self-governing and other bodies

66. Judicial self-governing and other bodies include the Judicial Council which is the constitutional authority of the judiciary and whose status and functions are prescribed by the Constitution, Judicial Boards established by all categories of ordinary courts, disciplinary commissions and the Selection Commission (see further below). The Judicial Council (JC) is presided over by the Supreme Court Chief Justice (*ex constitutione* member) and consists of 17 other members, including eight judges elected by the judiciary, three members elected by Parliament, and three members appointed respectively by the President and the Government. The tenure of membership of the JC is five years renewable once. Decisions are adopted by an open majority vote. The Council administers the greater part of judicial affairs: it, *inter alia,* proposes candidate judges, decides on the assignment and transfer of judges, proposes candidates for the position of the Supreme Court Chief Justice and his/her Deputy, elects and dissolves disciplinary commissions and comments on the draft budget of courts.

67. Judicial Boards are elected by the Plenary of a court from among its members by secret ballot for a five-year term. Acting as president or vice-president of a court is incompatible with membership of the Board. Tasks entrusted to the Board include commenting on the court's draft budget, discussing the president's report on the use of funds, electing members of the Selection Commission, initiating disciplinary proceedings

[36] http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoEval1(2000)2_Slovakia_EN.pdfpages, pages 13-14.

and deciding on certain matters pertaining to judges' remuneration. Voting is public, and resolutions are passed by a qualified majority of members present.

68. Disciplinary commissions carry out disciplinary proceedings in two instances (this does not apply to the Supreme Court Chief Justice and his/her Deputy who come under the jurisdiction of the Constitutional Court[37]). The first instance commission is a three-member panel composed of one representative respectively, of a judicial, legislative and executive authority, under the condition that its chair and one member must be judges, and the other member – a non-judge. The second instance commission is a five-member panel which comprises one representative of a judicial authority and two representatives respectively of a legislative and executive authority, under the condition that the commission's chair and two members must be judges and the other two members must be non-judges. Candidates are selected randomly from databases set up by the courts' Judicial Boards, the Ministry of Justice and Parliament. The candidates are appointed and dismissed by the Judicial Council. Any subsequent investigations are conducted by the commissions in an open hearing. Decisions are adopted by a majority vote and, within three working days, made public on the web site of the Supreme Court.

69. Vesting an independent Judicial Council and judicial self-governing bodies with a decisive influence on decisions concerning the appointment and career of judges is an appropriate method for guaranteeing the independence of the judiciary and, as such, is in line with international standards. Nonetheless, serious concerns were expressed by the media and NGO representatives who the GET met on site over the undue political influence exerted by the executive on the Judicial Council (as well as the disciplinary commissions and the Selection Commission) due to its membership thereof.[38] It is recalled that as per Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, judges elected by their peers should make up not less than half the members of councils for the judiciary. Even though, as the GET was told, in practice, some of the members elected by Parliament or appointed by the President or Government often happen to be judges, the legal provisions referred to above fall short of meeting this requirement. Furthermore, in order for courts to play their crucial role in the fight against corruption, both judges and the judicial system as a whole must not only be independent, but also be seen to be independent, including when dealing with judicial misconduct. The GET is aware that the composition and proceedings of the disciplinary commissions had been challenged before the Constitutional Court which found them to be in conformity with the Constitution, ensuring the independence of the judiciary and the fundamental right to judicial protection. Nevertheless, information collected on site suggests that the perception of undue influence is significant and needs to be properly addressed. This could be achieved notably by promoting greater transparency in the functioning of the judicial self-governing and other bodies, in particular, by providing regular and more detailed information to the public on proceedings related to the appointment of judges (including high judicial posts), the conduct and outcome of disciplinary proceedings and any corruption-related court decisions. Accordingly, **GRECO recommends that (i) in order to strengthen the independence of the judiciary from undue political influence, to provide in law for not less than half the members of the Judicial Council to be elected by their peers; and that (ii) the transparency in the functioning of the Judicial Council and judicial self-governing bodies (notably the disciplinary commissions and Selection Committee) be further improved.**

[37] Article 136(3) of the Constitution.

[38] Allegedly, such representation has directly affected the appointment of judges at all levels, their assignment and transfer to courts, as well as the outcome of disciplinary proceedings. For example, the GET was informed that the Judicial Council had selected candidate judges who had applied for the post of judge after parliamentary elections but failed to consider those who had applied prior to the elections. Also it is often alleged that disciplinary proceedings are used to arbitrarily intimidate those judges who are publicly critical of the current state of affairs within the judiciary. See also e.g. Transparency International National Integrity System Assessment. Slovak Republic 2012.

Recruitment, career and conditions of service

Professional judges

70. Recruitment requirements are laid down in the Constitution and the AJLJ. According to the Constitution, any citizen who can be elected to Parliament,[39] has reached the age of 30 and completed legal education may be appointed as a judge.[40] Additionally, candidates are to be of full legal capacity and sufficiently good health to perform the duties of a judge, possess requisite moral qualities, have a permanent residence in the Slovak Republic, have passed a judicial examination and the selection procedure and given their written consent to be appointed as judge in a specific court.[41]

71. Vacancies are filled, as a rule, by way of an open competition which is announced by the respective court president. It consists in a written test, a case study, drafting of court decisions, translation from a foreign language, psychological assessment and an oral interview. Evaluations are carried out by a Selection Commission composed of five members who are drawn by the president of court from databases set up by the Ministry of Justice, the Parliament, the JC and the Judicial Board of a court where the vacancy is announced. Two members are to represent the Minister of Justice and one member, respectively, the Parliament, the JC and the Judicial Board.[42] The Commission has a quorum if at least four of its members are present and takes decisions by a majority vote. The date and place of a competition as well as the names of the Commission members are announced on the Ministry of Justice's web site. The competition is public (except for the vote), and administered by the court president who is obliged to ensure public participation therein.[43] The minutes of a competition are to be published by the Commission's chair on the Ministry of Justice's web site within 24 hours. The names of successful applicants are then transmitted to the JC.

72. Candidate judges are subjected to substantial public scrutiny. Prior to a competition, the following documents are disclosed on the Ministry of Justice' web site: the application, curriculum vitae and cover letter. In addition, each candidate is to submit a written affidavit indicating all persons close to him/her who are judges, court or Ministry of Justice employees or members of the Selection Commission. Within 20 days of publication, anyone may file reasoned objections with respect to applicants with the Selection Commission.[44]

73. According to both the Constitution and the AJLJ, judges are appointed indefinitely by the President of the Republic, upon the recommendation of the JC based on the results of a selection procedure. A judge takes up his/her office upon pronouncing oath and affirming it with his/her signature. A judge may be assigned to a regional court/Specialised Criminal Court or the Supreme Court, provided s/he has been working for at least 10 or 15 years depending on the court, following a competition. Court presidents are selected through a competition as described above, and appointed by the Minister of Justice for a three year term which is renewable once.[45] The Supreme Court Chief Justice and his/her Deputy are appointed from among the Court's justices by the President, upon the recommendation of the JC, for a five-year term renewable once.[46]

[39] According to Article 74(2) of the Constitution, a citizen who has the right to vote, has reached the age of 21 and has permanent residence on the territory of the Slovak Republic may be elected a member of Parliament.
[40] Article 145(2) of the Constitution.
[41] Section 5(1) AJLJ.
[42] The databases are available on the web sites of the respective institutions.
[43] If a high public interest is expected, the president is to hold the competition in a suitable room, bearing in mind the expected turnout and available space - Section 38(5) AJLJ.
[44] Section 28(6-7) AJLJ.
[45] Section 36 AC.
[46] Article 145(3) of the Constitution.

74. A judge is subject to several types of evaluation: (1) a general performance evaluation every five years; (2) evaluation linked to participation in a competition; and (3) evaluation if there is a motion to initiate disciplinary proceeding. Assessment is based, *inter alia*, on an analysis of a judge's dignity in managing court hearings, and takes into account the Judicial Board's position as regards his/her adherence to the principles of judicial ethics. The evaluated judge, and under certain circumstances the Judicial Board, may comment on the evaluation conclusions, which are not subject to judicial review. Additionally, an annual statistical report on a judge is prepared by a court president and is published on the Ministry of Justice's web site.

Conditions of service

75. Salaries of district and regional court judges are classified within two salary groups and seven salary grades.[47] The basic salary of a judge is derived from the average salary of a judge which is equivalent to the salary of a member of Parliament or to the first salary group, third salary grade. The basic salary of a judge takes into account length of service; for this reason, the basic salary at entry level may vary between EUR 2,122.20 and EUR 3,065.40.[48] The basic salary is not linked to the performance of additional duties in court. The table below shows the current basic salaries of district and regional court judges (1 January 2012):

Salary grade	**Years of experience**	**Salary group**			
		First/district court		**Second/regional court**	
1st	till the end of the third year of practice	90%	2,122.20 €	95%	2,240.10 €
2nd	from the beginning of the fourth year of practice	95%	2,240.10 €	100%	2,358.00 €
3rd	from the beginning of the eighth year of practice	100%	2,358.00 €	105%	2,475.90 €
4th	from the beginning of the twelfth year of practice	105%	2,475.90 €	110%	2,593.80 €
5th	from the beginning of the sixteenth year of practice	110%	2,593.80 €	115%	2,711.70 €
6th	from the beginning of the twentieth year of practice	115%	2,711.70 €	120%	2,829.60 €
7th	from the beginning of the twenty fourth year of practice	120%	2,829.60 €	125%	2,947.50 €

76. The basic salary of the Supreme Court justice and of the Specialised Criminal Court judge is equal to 1.3 times the salary of a member of Parliament or EUR 3,065.40.

[47] Section 66(2) AJLJ.
[48] All figures are provided for 2012.

77. Judges are additionally entitled to (a) bonuses, (b) pay for the execution of office outside working hours, (c) additional pay (e.g. 13th and 14th months), and (d) salary adjustments. Bonuses are paid for: (1) exercising managerial responsibilities; (2) performing a higher judicial office (e.g. court or panel president); (3) exercising certain functions (e.g. within a Specialised Criminal Court or as a Supreme Court justice deciding on appeals in cases for which the former court is competent as a first instance court); (4) carrying out temporary assignments and standby service; (5) other adjudication, as well as healthcare, sickness and maternity-related compensation cases. In case of injury, occupational illness or death of a judge, s/he or his/her family members are entitled to compensation for damages or lump sum payments. Control over the legitimate use of benefits is carried out by the respective courts and the Ministry of Justice, as part of court audits. The GET was not made aware of any problems linked to the abuse or misappropriation of additional entitlements of judges.

Lay judges

78. The criteria for appointment as a lay judge stipulate that the candidate should be a citizen of the Slovak Republic, 30 years of age on the day of election, with full legal capacity, of good health to exercise the office of a lay judge, of good character and with moral standing providing guarantees for due execution of duties, with a permanent residence in the Slovak Republic and who agrees to be elected to a specific court.[49] Lay judges are elected by a municipal council within a court's circuit, from among citizens permanently residing therein. Candidatures are proposed by mayors (municipalities) and lord-mayors (cities). An opinion by the respective court president is also required. The tenure of lay judges is four years but may be prolonged until a judgment has become final.[50] Presidents of district and regional courts are responsible for determining the number of lay judges in a court and providing them with the requisite training. The Ministry of Justice exercises overall co-ordination and directs such training.[51]

79. A lay judge has the same rights and obligations as a judge, except for the right to chair a panel, and is entitled to remuneration for the exercise of duties and reimbursement of relevant expenses. In law, participation in training forms part of the execution of a lay judge's office. The authorities, however, admit that there is no training organised; normally, after pronouncing the oath, lay judges are informed by the court officials of their rights and obligation as lay judges.

Case management and procedure

80. Depending on the type of procedure and in order to preclude any improper influence, cases are randomly assigned to a panel of judges or a single judge via an electronic register.[52] The condition of random selection is met if a case is assigned to one of at least two panels or single judges. If this requirement cannot be fulfilled but the case has to be assigned without delay, the assignment is made according to the work plan, in a manner that excludes undue influence. A work plan is compiled annually by a court president, based on the principle of even workload. The plan is discussed with judges and Judicial Board and presented to the JC. The final plan, accompanied by relevant comments, is made publicly accessible (excerpts and copies can be made).[53] Responsibility for complying with the statutory requirement of random assignment lies with the court presidents[54] and failure to submit a draft work plan to the JC is a serious disciplinary offence.

[49] Section 139 AJLJ.
[50] Sections 140-142 AJLJ.
[51] Section 71 (a.5) AC.
[52] Section 51 AC.
[53] Sections 50(4) and 52 AC.
[54] Section 74(1.i) AC.

81. A receipt confirming the assignment of a case is given to the parties to the proceeding. The registration of case assignments is intended to guarantee that anyone with a legal interest can consult the file to find evidence of assignment to a statutory judge. A judge may be removed from a case on the grounds of long-term absence (over six weeks), a change in a court's jurisdiction, a significant disparity in the workload of judges, or the withdrawal or recusal of a judge.

82. The right of everyone to have his/her case tried without undue delay is enshrined in the Constitution and the AJLJ.[55] On assigned cases, a judge is to act without undue delay and to indicate to a court president if s/he has an excessively high number of cases and there is an obvious risk that it will be impossible to handle them in a timely fashion. Court presidents are to monitor and evaluate judges' performance, discuss with them the deficiencies identified and impose remedial measures within their competence.[56] Courts and judges are furthermore subject to regular internal audits which examine, *inter alia*, the status and grounds of old pending cases and procedural delays. In the past decade, some 30 judgments of the European Court of Human Rights have established a violation by the Slovak Republic of Article 6 of the European Convention on Human Rights on the grounds of excessive length of judicial proceedings.[57] The vast majority of these cases concerned delays in civil proceedings. The authorities admit to a significant increase in the number of civil cases recorded in 2010, many of which are still pending. The on-going substantial revision of the Civil Procedure Code, which is intended to address this deficiency in particular by simplifying and speeding up proceedings as well as limiting obstructive tactics by parties to the case, is fully supported by the GET.

83. According to Articles 48(2) of the Constitution, everyone has the right to have his/her case tried in public. Exceptions are listed in the Codes of Criminal and Civil Procedure. In criminal proceedings, the public may be excluded from the hearing or part of it only if its participation would endanger sensitive and confidential information protected by law, public order, morality or security, or if exclusion is required by any other important interest or that of the accused, aggrieved, their relatives or witnesses.[58] In civil proceedings, a hearing is held *in camera* if it concerns protection of trade interests, classified information, major interests of the parties, or morality. The court may also deny access to minors and citizens who might interfere with the dignified conduct of a hearing.[59] Verdicts are always proclaimed in public.[60] Court rulings had previously been available on request under the Freedom of Information Act and in 2011 a law was adopted mandating their online publication (http://www.rozhodnutia.sk/). This much welcomed measure is expected to improve the quality of judicial rulings and enhance their comparability.

Ethical principles and rules of conduct

84. Judges take and sign an oath of office at the start of their career. The key ethical principles of the judiciary are enshrined in the AJLJ and the 2001 "Principles of Judicial Ethics" which were adopted jointly by the Ministry of Justice and the JC and have not been updated since.[61] Section 30 AJLJ, entitled "Fundamental obligations of judge" prescribes the following conduct for a judge: refraining from anything that could undermine the authority and dignity of judicial office or jeopardise confidence in the

[55] Article 48 (2) of the Constitution and Section 30(4) AJLJ.
[56] Section 53 AC.
[57] See e.g. *Komanický v. Slovakia* (No.6) 12 June 2012 (Application No. 40437/07); *Bubláková v. Slovakia* of 15 February 2011 (Application No. 17763/07); *Keszeli v. Slovakia* of 21 December 2010 (Application No. 34200/06); *Sirotňák v. Slovakia* (Application No. 30633/06) and *Urík v. Slovakia* (Application No. 7408/05), both of 21 December 2010; *Berková v. Slovakia* of 24 March 2009 (Application No.67149/01); *Pavlík v. Slovakia* of 20 January 2007 (Application No. 74827/01).
[58] Section 249 of the Code of Criminal Procedure.
[59] Section 116 of the Code of Civil Procedure.
[60] Article 142(3) of the Constitution.
[61] Developed pursuant to Act on the Judicial Council No. 185/2002 Coll., which obliges the JC to elaborate, jointly with the Minister of Justice the principles of judicial ethics.

independent, impartial and fair decision making of courts or in the judge's impartiality, whether in civil life, in office or after; enforcing and defending the independence of the judiciary and its good reputation; observing the principles of judicial ethics. Breach of statutory duties constitutes a disciplinary offence liable to sanctions. The "Principles of Judicial Ethics" is a brief document, consisting of a preamble and prescriptions relevant for judges' obligations in civil life, while executing the office and obligations to the profession. The "Principles" are published on the web site of the Association of Judges which has some 450 members and which has also developed its own code of ethics and established an ethics committee to discuss ethical dilemmas. Both codes are not legally enforceable and cannot be relied upon in assessing the behaviour of a judge or used in disciplinary proceedings. Ethical issues are addressed in the initial and – occasionally – in specialised training courses offered to judges by the Judicial Academy (see further below).

85. There was a wide acknowledgement of public perceptions of ethical lapses among the judiciary. It was suggested to the GET, particularly by the judges themselves, that these perceptions are the foreseeable result of an adversarial system in which there are winners and losers. It was also emphasised that the lack of resources in the Slovak Republic results in judicial delays that give rise to dissatisfaction with judicial processes, undermine public confidence and provide fodder for perceptions that the system is corrupt. Generally, the judges did not acknowledge that concern about judicial ethics was legitimate and opined that they knew how to behave properly. Even though most of the judges who the GET met denied the need for an ethical code to express the core values of the judiciary (largely due to its perceived aspirational nature), developing such a code, notably by adapting and revising the existing "Principles of Judicial Ethics" which are applicable to the judiciary as a whole, would be an important measure, particularly bearing in mind the degree of public mistrust. A broad debate with the participation of the majority of judges leading to a new written code would be fully in line with the Government Manifesto, one of the goals of which is to restore confidence in the judiciary and the rule of law. This would not only help achieve this goal in a proactive manner but also send a visible and pertinent message as to the judges' determination to uphold the integrity of their office and enhance public trust. It would also be important to establish a proper enforcement of the code, once it is adopted. Consequently, **GRECO recommends 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.**

Conflicts of interest

86. Two systems govern conflicts of interest within the judiciary. The first one was set up pursuant to the previously mentioned Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials (PPI). It applies to Constitutional Court justices, the Supreme Court Chief Justice and his/her Deputy, as well as eight judges who are members of the Judicial Council (or twenty three judges in total). The PPI provides a definition of conflicts of interest and establishes mechanisms for their prevention and resolution.[62] For the rest of the judiciary, the regulation is provided by the Constitution and the AJLJ. These impose a number of duties on a judge: 1) to impartially perform his/her profession; 2) to comply with the restrictions on outside employment, including by means of annual written affidavits; 3) to regularly declare assets; and 4) to disclose relatives whose professional occupation may create situations of conflicts of interest for the judge. If there are reasonable grounds to question the impartiality of a judge, s/he is to recuse her/himself on the basis of Section 31 of the Criminal Procedure Code and Sections 14-17 of the Civil Procedure Code. The "Principles of Judicial Ethics" do not specifically address the issue of conflicts of interest.

[62] Sections 3-8 PPI, see above under "Corruption prevention in respect of members of Parliament".

87. Perceptions of conflicts of interest within the Slovak judiciary appear to be significant. It was alleged by the media and NGO representatives met by the GET that professional and personal relationships of judges frequently give rise to actual and potential conflicts of interest. In this regard, it is to be noted that information on the frequency of disqualifications by judges and the way in which this affects the allocation and transfer of cases is not collected or analysed in a consistent manner (see also paragraph 90 below). Whereas the PPI arguably provides for an adequate framework for addressing and managing conflicts of interest, the specific manner in which this law is implemented within the judicial context has not been made sufficiently clear. Moreover, it needs to be emphasised that the PPI only applies to a fraction of judges. With regard to the bulk of the judicial corpus, there is no deliberate policy for preventing and resolving conflicts of interest and mitigating other corruption risks. Amongst the judges interviewed by the GET, understanding of the various situations, particularly choices and decisions taken outside courts which may give rise to conflicts of interest, appears to be weak. In view of the foregoing, **GRECO recommends that a focused policy for preventing and managing conflicts of interest and corruption risks within the judiciary be elaborated and properly enforced.** Possible elements of such a policy could include the revision of the existing legislation with a view to introducing statutory definition(s) of situations constituting conflicts of interest. Additionally, any future legislation would need to be complemented by explanations and examples of actual and potential conflicts of interest derived from practice, for example in the form of guidelines, and be tested through a series of dedicated training programmes.

Prohibition or restriction of certain activities

Incompatibilities, accessory activities and post-employment restrictions

88. Pursuant to the Constitution, the right of a judge to engage in entrepreneurial and other business activity may be restricted by law.[63] This provision is implemented by virtue of Section 23 AJLJ which stipulates that being a judge is incompatible with service in another public body, civil service, employment contract, similar employment relationship, entrepreneurship, membership in a managing or supervisory body of a legal person engaged in business, or any other economic or gainful activity except for administering one's own property, scientific, educational, literary or artistic activity or membership in the JC. In case of doubt, the JC is to decide on the dismissal of a judge or termination of said activity. Within 30 days from assuming office and, henceforth, on an annual basis, a judge is to submit a written affidavit to the JC indicating: (1) compliance with Section 23 above; (2) any benefits derived from permitted activities/functions; (3) relatives[64] who are judges, employees of courts or Ministry of Justice, including organisations under the Ministry's jurisdiction; (4) any changes thereof.[65] The full affidavits (although without some personal details and number of parcels of real estate) are published on the JC's web site, alongside the judges' asset declarations (http://www.sudnarada.gov.sk/majetkove-priznania-sudcov-slovenskej-republiky/).

89. Judges who are public officials[66], with the exception of the Supreme Court Chair and Vice-Chair, are exempted from Section 8 PPI that imposes a one-year "cooling-off" period after holding public office. For other category of professional judges, there are no restrictions on employment in certain posts or on engaging in specific paid or unpaid activities in the private sector after terminating a judicial function. The GET did not find this to be a particular source of concern in the Slovak Republic, as there appear to be only few cases where judges leave their office to act as attorneys, for example. This

[63] Article 54 of the Constitution.
[64] Section 116 of the Civil Code defines a relative as a person related in a direct line, sibling, spouse, other family members or similar persons who are considered close to each other, if the damage suffered by one of them is reasonably felt like their own damage.
[65] Section 31 AJLJ.
[66] That is Constitutional Court justices, the Supreme Court Chief Justice and his/her Deputy and eight judges who are members of the Judicial Council.

issue however deserves to be kept under review as a potential source of conflicts of interest.

Recusal and routine withdrawal

90. According to Section 31 of the Criminal Procedure Code, judges and lay judges are to be disqualified from a criminal case if there are reasonable grounds to question their impartiality with respect to the case or natural/legal persons directly involved in the procedure concerned, a defence counsel, legal representatives, proxies or any other body involved in the same proceeding. A judge or lay judge who had served as a prosecutor, investigator, police officer, representative of civil association, defence counsel or proxy of one of the parties in the same matter or who decided upon the case at a lower or higher court is also subject to disqualification. A judge may recuse him/herself, or is disqualified following a motion by a party. Similar rules also apply in civil law cases.[67] Information on the frequency of disqualifications and the way in which they affect the allocation and transfer of cases is not collected or analysed.

Gifts

91. Judges who are qualified as public officials (i.e. Constitutional Court justices, the Supreme Court Chief Justice and his/her Deputy and eight judges who are members of the JC) are subject to regulations on gifts provided under the PPI and may not solicit, accept or induce other persons to give them gifts or receive other advantages related to the performance of office, except for customary gifts.[68] By virtue of Section 30(1) AJLJ, identical limitations apply to other judges. The prohibition on accepting bribes and abuse of office under Articles 326 and 328-336 of the Criminal Code also applies. The GET understood that it was not an acceptable practice for judges to receive gifts.

Third party contacts and confidential information

92. A judge is bound to keep confidential information which became known to him/her when in office and after, unless the law prescribes otherwise. A court president, including of a superior court, may relieve a judge from this duty, except when it concerns voting matters. However, even after being released from the confidentiality duty, a judge is to protect the legitimate interests of parties. While in office, a judge may not unilaterally impart or receive from parties or their legal counsel any information or discuss with them the merits of a case or procedural issues, except as prescribed by law. A judge is also to refrain from public statements concerning cases which have not yet become final.[69] No sanctions are available specifically for a breach of confidentiality by a judge. Nevertheless, depending on the act, violation of duties prescribed by the AJLJ may carry disciplinary or criminal liability, the latter, for such crimes as abuse of office, corruption and interference with the independence of a court. Furthermore, undermining the safety of classified, confidential or restricted information carries criminal liability as per Articles 319-320 and 353 of the Criminal Code.

Declaration of assets, income, liabilities and interests

93. Apart from the twenty three judges who, as public officials, report their assets to Parliament under the PPI under the same conditions as members of Parliament (see paragraphs 44-45 above), the rest of the judiciary are subject to rules prescribed by Section 32 AJLJ. During their term in office, such judges are to submit declarations within 30 days from assuming office and on an annual basis detailing information on: (a) real estate, including legal titles, date of acquisition and acquisition price, in case of

[67] Sections 14-17 of the Code of Civil Procedure.
[68] Section 4(2)(b) PPI.
[69] Section 30 AJLJ.

acquisition for no cost pursuant to the Prices Act[70]; (b) each movable asset above EUR 6,600, including legal title, date of acquisition and acquisition price, in case of acquisition without paying the customary price; (c) each shareholding and other asset exceeding EUR 6,600, including legal titles, date of acquisition and price under the same rules as above; (d) movable assets, property rights and other assets below EUR 6,600 if their aggregate customary value exceeds EUR 16,600; (e) any income received during the preceding calendar year. Included in the declaration are also the financial situation of spouse and children (minors) sharing the same household.[71] The declarations are filled in electronically, each judge being provided with a username and password. Appended to the declaration is an oath by a judge that s/he is not aware of any income of persons sharing his/her household that may be considered as undeclared income or proceeds from dishonest sources. All data is reported to the Chair of the Judicial Council who arranges for its verification and ensures its publication, on an annual basis, on a designated web site (http://www.sudnarada.gov.sk/majetkove-priznania-sudcov-slovenskej-republiky/).

94. GRECO notes that the current thresholds for reporting assets by judges who are not qualified as public officials are much lower than those set out for members of Parliament and selected members of the judiciary and better suited to the economic conditions and judicial salaries in the Slovak Republic. On the other hand, the absence of a requirement to report liabilities, primarily debts, and gifts above a certain value is regrettable. Therefore, as part of their declared attempts to restore public confidence in the rule of law and the judiciary, **GRECO recommends 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.**

Supervision and enforcement

Supervision over judicial conduct and conflicts of interest

95. Pursuant to Section 53 AC, a court president oversees the observance of principles of judicial ethics by judges and of dignity and integrity of judicial proceedings. Also, more broadly, a court president monitors a judge's performance and his/her compliance with obligations imposed by the AC and applicable laws, including those on recusal from a case due to a conflict of interests. In case of a breach, the court president is to discuss the matter with the judge, and if necessary, impose remedial measures. The court president may also initiate disciplinary proceedings against the judge or ensure that criminal proceedings are instituted against him/her by a relevant body.[72] Additionally, in respect of judges who are qualified as public officials, compliance with conflicts of interest rules contained in the PPI is supervised by the Committee on the Incompatibility of Functions of the National Council. Since the elevated levels of public perceptions of ethical misconduct and conflicts of interest within the judiciary are already described elsewhere in this Report, GRECO can only renew its calls on the authorities to develop a targeted policy for preventing and addressing conflicts of interest and other corruption risks within the judiciary and to revise and adapt the "Principles of Judicial Ethics" so that they fully respond to increased ethical demands. The appropriate sanctioning of ethical breaches and of the existing and the soon-to-be-established rules on conflicts of interest through relevant proceedings is to be given priority attention. Likewise, if the recommendation to strengthen the oversight powers of the Committee on the Incompatibility of Functions (see paragraph 52 above) is properly implemented, this would have a positive effect and heighten compliance with the conflicts of interest rules by those judges who belong to the category of public officials under the PPI.

[70] No. 18/1996 Coll.
[71] In case of a marital agreement on reduction/extension of the lawful scope of joint property or administration thereof, the financial situation of the spouse is to be declared separately from that of a judge.
[72] Section 42(3) AC.

Supervision over declarations of assets and additional employment

96. Declarations of offices, employment positions, activities and economic standing of judges who are public officials are checked by the Committee on the Incompatibility of Functions of the National Council in the same way as for members of Parliament.[73] For the rest of the judiciary, it is the JC that has supervisory powers. If a judge fails to submit an affidavit on information on auxiliary employment or an asset declaration on time, the JC's Chair is to remind him/her of this duty no later than within 30 days. As previously mentioned, if the JC finds a particular function or activity to be incompatible with the office of a judge, the JC's Chair is to decide whether the judicial office or the function/activity should be terminated. While reviewing the completeness of the affidavits and asset declarations, the JC may request a judge to provide additional clarifications within 30 days. If, after examining property declarations, it is determined that its value exceeds the judge's salary and other declared income, the JC's Chair is to request the judge to prove how the property was obtained. The JC's Chair may also request a judge to present proof of his/her tax return or receipts demonstrating income or the acquisition of assets (including their value) within 60 days. In case of a failure to comply with the aforementioned requirements or the provision of insufficient information, the JC may file a motion to the Minister of Justice to initiate disciplinary proceedings or may initiate such proceedings itself.

97. If it constitutes a breach of duty or failure to fulfil such a duty, the failure to submit an affidavit or an asset declaration would qualify as a disciplinary offence.[74] Depending on the nature and gravity of a judge's act, it may fall under one of three categories, each entailing a separate disciplinary sanction:

- a basic disciplinary offence, subject, separately or concurrently, to the following sanctions:
  (a) reprimand;
  (b) reduction in salary by 30% for up to six months;
  (c) removal from office of a court president;
  (d) adoption and publication of a decision that a judge has not proven the source of an increase in his/her income in the respective year in a manner prescribed by law (i.e. a special penalty only prescribed for failure to submit a declaration of assets or incorrect information presented therein);

- a serious disciplinary offence, liable to the following sanctions:
  (a) transfer to a lower court;
  (b) reduction in salary from 50 up to 70% for a period of three months to one year;
  (c) adoption and publication of a decision that a judge has not proven the source of an increase in his/her income in the respective year in a manner prescribed by law, by which s/he undermines the honour and dignity of office or endangers trust in the independent, impartial and fair administration of justice (i.e. a special penalty only imposed for a violation of law in respect of the obligation to submit an asset declaration);

- a serious disciplinary misconduct incompatible with the duties of a judge and leading to his/her dismissal from office.

98. In the last couple of years only one proceeding was initiated against a judge for an alleged violation of the rules on asset declarations.[75] This could be indicative of a number

[73] See above under "Corruption prevention in respect of members of Parliament".
[74] Disciplinary liability is regulated by Sections 115-138 AJLJ.
[75] In 2011, the president of the Poprad district court had filed a motion for disciplinary proceeding to be initiated against a judge on suspicion of a disciplinary offence, namely the concealment in the 2009 assets declaration of acquisition of nearly 5,000 square meters of arable land in exclusive ownership. The disciplinary proceeding in question is still pending.

of shortcomings inherent to the oversight regimes described above. As concerns supervision by the Judicial Council, the authorities themselves acknowledged that asset declarations are monitored in a formalistic way. Information on relatives, although collected, is not scrutinised, and in case of an omission in a declaration, no sanctions are imposed and the judge concerned is only asked to complete the form. It was also made clear that human and material resources available to the JC are insufficient to ensure quality checks of declarations submitted by over one thousand three hundred judges. Bearing in mind the previously mentioned low level of public trust in the judiciary, strengthening oversight specifically over the asset declarations is essential in order to ensure the effectiveness of the system. Consequently, **GRECO recommends 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.**

99. As regards monitoring by the Parliamentary Committee on the Incompatibility of Functions, the current wording of the PPI is rather restrictive and does not allow the Committee to institute proceedings *ex officio*. This was precisely the reasoning used by a Constitutional Court judge to challenge the submission of her comments to the Committee (as, according to the law, such comments must only be provided on a motion to institute proceedings). GRECO is satisfied that the upcoming revision of the PPI would empower the Committee to institute proceedings without a motion. As concerns other deficiencies in the Committee's operation, a satisfactory implementation of the recommendation in paragraph 52 above, is expected to improve, amongst others, the supervision over auxiliary employment and asset declarations of the twenty three judges belonging to the category of public officials.

Other duties

100. As concerns violation of other duties, in 2008, 36 disciplinary proceedings were initiated against judges. Regrettably, no information is available on the number of sanctions imposed in these cases.[76] In 2010, 18 disciplinary proceedings were initiated, including one for professional inadequacy, eight of them led to sanctions being imposed, including one downgrading, two reprimands and four temporary reductions in salary. Five other proceedings are pending, four proceedings were suspended and one case was transferred to the prosecution service.[77] In 2011, 7 disciplinary proceedings were initiated, and 6 other were pending from 2010. In 2012, 3 proceedings were initiated, 10 were pending from 2011 and one from 2010.

101. Pursuant to Section 29a AJLJ, judges and lay judges enjoy functional immunity and may not be prosecuted for their decisions, including after leaving office. Following legislative reforms of 2012, immunity from proceedings concerning minor offences ("misdemeanours") for all categories of judges and immunity from criminal proceedings in respect of the Constitutional Court Justices was abolished. It is the Constitutional Court that has to authorise the criminal prosecution of judges of ordinary courts and their custody.[78] If, in the exercise of his/her duties, a judge commits an aggravated abuse of office or a corruption offence, s/he falls under the jurisdiction of the Specialised Criminal Court. As concerns lay judges, they may be prosecuted and taken into custody for acts committed while exercising judicial functions only with the JC's approval. Between 1 January 2003 and 31 August 2013, five judges were prosecuted for accepting a bribe (Section 329 of the Criminal Code) and for related criminal activity.

[76] European Judicial Systems, Edition 2010 (data 2008): Efficiency and Quality of Justice, European Commission for the Efficiency of Justice (CEPEJ).
[77] Fourth Evaluation Report on European Judicial Systems, European Commission for the Efficiency of Justice (CEPEJ), 20 September 2012.
[78] Article 136(1-4) of the Constitution.

Advice, training and awareness

102. Section 30(7) AJLJ confers an obligation on judges to improve their professional knowledge, and to take advantage of the training opportunities available. A judge is also to contribute to the training of junior judges, unless the performance of judicial duties prevents him/her from doing so. The authorities indicate that the participation of a judge in seminars and study visits as well as professional publications and lecturing activities constitute an important prerequisite for career advancement. However, it is only the initial training of judges that is compulsory.

103. The initial and in-service training is provided by the Judicial Academy which is an independent legal entity, a non-profit budgetary organisation under the Ministry of Justice, operational since 2004. Annual academic plans are compiled by the Academy's Board based on joint submissions by the JC and the Ministry of Justice.[79] Court presidents are obliged to co-operate with the Academy[80] and to submit annual proposals as regards its educational programmes. The total number of the Academy's staff is 32, of which 14 employees work in Pezinok and 18 in the detached educational centre in Omšenie. The training activities are carried out in Omšenie, in the Minitry of Justice's Institute of Education. These latter premises are allegedly of a rather limited capacity making it necessary to repeat many training events. Absenteeism is another problem which is dealt with by imposing obligatory reimbursement of tuition fees by those who miss a training event without good reason and advance cancellation.[81] As regards judicial ethics, regular training programmes are held by the Academy on issues such as "Integrity awareness-raising", "Disciplinary liability of judges", "Liability for damage caused in the exercise of public authority".

104. GRECO notes that in 2011 the system of traineeships in various positions within courts under the guidance of a tutor was abolished. According to many interlocutors, this has had a direct negative impact on the quality of candidate judges. The re-introduction of this system is currently being examined as a means to reinvigorate the preparatory training and to enable some "integrity checks" on possible future judges. While this is fully supported by GRECO, no lesser attention should be dedicated to in-service training, advice and counselling of acting judges on issues such as integrity, conflicts of interest and corruption prevention. As mentioned under the recommendation in paragraph 85 above, one of the main objectives of such training, advice and counselling would be the promotion of the to-be-revised "Principles of Judicial Ethics" and their consistent implementation.

105. There are no specific channels via which information on the conduct to be expected of a judge is made available to the public, except for the statutory obligation for all final court decisions to be published on the web sites of the respective courts within 15 working days of their delivery. Final decisions of disciplinary commissions are to be published on the web site of the Supreme Court.

106. The wider public also have the opportunity to report corruption within the judiciary via a designated hot-line established in January 2013 by the Ministry of Justice. The information reported is to include the date and specific and verifiable information suggesting the commission of bribery, trading in influence or abuse of office as defined under the Criminal Code. The authorities report that the calls received so far have mainly concerned decision-making activities of courts and judges (i.e. allegations of bias in proceedings) in which the Ministry of Justice has no authority to interfere. From April 2013, a total of 33 entries were registered, none of them leading to a reasonable suspicion of corruption committed by a judge.

[79] Article III (2) of the Status of the Judicial Academy of the Slovak Republic.
[80] Section 74(1.d) AC.
[81] http://wwwold.justice.sk/a/wfn.aspx?pg=ld&htm=ld/ja_bi.htm.

V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS

Overview of the Public Prosecution Service

107. According to the Constitution, the Public Prosecution Service of the Slovak Republic protects the rights and lawful interests of individuals, legal entities and the state and is headed by the Prosecutor General who is appointed and dismissed by the President, upon a proposal by the National Council.[82] The Act on Public Prosecution Service (APPS)[83] determines the status, competences, organisation and management of the Service, as well as the status and competences of the Prosecutor General and other prosecutors. It defines the Service as an autonomous hierarchically organised uniform system of state bodies, headed by the Prosecutor General, in which prosecutors "act in the relations of subordination and superiority". Duties entrusted to the Service include criminal prosecution and legal supervision over criminal proceedings, exercise of prosecutorial powers within proceedings before courts, state representation in judicial proceedings, legal supervision over public authorities, participation in the prevention and suppression of crimes and in drafting of legislation and performing other duties/obligations prescribed by a separate act or international treaty. The Service does not belong to any branch of power, the guarantees of its autonomy being reinforced through a ban on membership of a political party[84] and direct approval of its budget by the National Council to which the Prosecutor General is accountable. It should be noted that certain key provisions of the APPS[85] were challenged before the Constitutional Court by the Prosecutor General and President of the Republic (due to possible interferences with the autonomous status of the Service and impartial decisions of prosecutors) and suspended as of 2011. The ensuing analysis therefore focuses only on legal provisions that are currently in force.

108. The internal structure of the Service corresponds to the system of courts and consists of three tiers. The first instance is represented by 54 district prosecution offices headed by district prosecutors and the second instance by 8 regional prosecution offices headed by regional prosecutors. The highest authority is the Office of the Prosecutor General who manages the activities of the Service directly or through chief prosecutors, designated prosecutors and employees. The Special Prosecution Office is an autonomous part of the Prosecutor General's Office with jurisdiction, *inter alia*, over corruption offences committed by members of Parliament, judges and prosecutors. In April 2013, the total number of prosecutors in the Slovak Republic was 899 (491 male and 408 female).

109. The status, rights, duties and liability of prosecutors are regulated by the Act on Prosecutors and Trainee Prosecutors (APTP). Prosecutors are to carry out their duties in accordance with and through means provided by law, protect the public interest, human rights, human dignity, fundamental human rights and freedoms, proceed fairly and impartially.[86] The Prosecutor General's instructions are generally binding upon his/her subordinates. Hierarchical relations are detailed in Section 6 APPS, which empowers senior prosecutors to give written instructions to their subordinates. No other person or institution may instruct a prosecutor how to act or decide in a particular case. The issuing of so-called "negative" instructions by senior prosecutors to their subordinates is also prohibited.

[82] Articles 149-151 of the Constitution.
[83] Act No. 153/2001 Coll.
[84] Article 54 of the Constitution, Section 8(3d) APPS and Section 26 of the Act on Prosecutors and Trainee Prosecutors, No. 154/2001 Coll.
[85] Originally the APPS had foreseen changes in the procedures related to the issuing of opinions by the Prosecutor General and the selection process for prosecutors and chief prosecutors, the composition of disciplinary commissions and the set of persons entitled to table a motion to commence such processes. The APPS was to introduce the concept of the incompatibility of the function of chief prosecutor with membership in the Prosecutors' Council. Some of the functions of chief prosecutors were to be removed and the service status of trainee prosecutors was to become that of a civil servant exercising the duties of an assistant to a prosecutor.
[86] Sections 26 ATPT and 3-5 APPS.

110. The Public Prosecution Service enjoys such autonomy as is necessary for the exercise of its mandate. The nature and scope of its powers are clearly established by law, and it accounts periodically and publicly for its activities via annual reports submitted to Parliament. Concerns about partisan decisions in cases of top-ranking politicians accused of criminal acts while in office, as well as cases of political party financing that have not been prosecuted within the proper time or have not been prosecuted at all, however are viewed by civil society and the media as threatening the independence of prosecutors.[87] Also, the functioning of the Service has been affected by the absence, for more than two years, of a legitimate Prosecutor General due to the refusal of the President to appoint a candidate nominated by Parliament.[88] The interim has been ensured by the Acting Prosecutor General (First Deputy). Considering the importance of the mandate of the Public Prosecution Service and of functions assigned within it to the Prosecutor General, GRECO calls upon the authorities to take urgent steps preventing such long vacancies in the future.

Prosecutorial self-governing and collegial bodies

111. Prosecutorial self-governing and collegial bodies have been established at the level of the Prosecutor General's Office and regional prosecution offices. They comprise Prosecutors' Assemblies and Prosecutors' Councils. Members of the latter are elected from the respective Assemblies by secret ballot for a three-year term. The Prosecutors' Councils are entrusted, *inter alia*, with giving opinions on the provisional budget of the respective prosecution offices and annual activity plans and formulating opinions on complaints made against prosecutors. The General Council of Prosecutors acts as a co-ordinating body for the Prosecutors' Councils and is composed of their Chairs. It gives opinions on the draft budget and annual activity plans of the Prosecution Service and draft legislation pertaining to its mandate and powers. Moreover, it gives opinions on assignment of prosecutors to another office, appointment to the position of chief prosecutor and dismissal from office, approves or refuses the appointment or removal of a prosecutor to/from the Special Prosecution Office, approves the principles of promotion of prosecutors. Other collegial bodies include the Selection Committee and the Disciplinary Commission (see further below) whose members are appointed by the Prosecutor General, upon a proposal by the General Council of Prosecutors.

112. The high level of self-governance within the Public Prosecution Service is commendable and of great significance for keeping it autonomous and therefore, immune to any outside influence which could potentially lead to corrupt practices. Nevertheless, in the system of hierarchical subordination the absence of a ban on heads of offices being elected to the respective Prosecutors' Councils and other bodies may undermine the very essence of these organs, blurring a distinction between them and the official hierarchies. Furthermore, perceptions of partiality in the decision-making processes within them might be amplified due to the fact that it is possible to appoint heads of prosecution offices without a competition (see paragraph 116 below). While no international norms govern the establishment or functioning of prosecutorial bodies, it might be prudent for the authorities to consider introducing a ban on heads of prosecution offices (or at least the Prosecutor General and his/her First Deputy) being elected to the prosecutorial self-governing and collegial bodies, including specifically the Selection Committee and the Disciplinary Commission.

Recruitment, career and conditions of service

113. Recruitment requirements for a prosecutor and assistant prosecutor are laid down in the APTP. In order to be appointed as a prosecutor, applicants must be citizens and permanent residents of the Slovak Republic, of at least 25 years of age, with a university degree in law, of full legal capacity, with an impeccable record, integrity and moral

[87] Transparency International National Integrity System Assessment. Slovak Republic 2012.
[88] The new Prosecutor General was finally appointed by the President of the Republic on 17 July 2013.

character guaranteeing proper execution of prosecutorial duties, fluent in the official language, not members of a political party or movement, who have passed a professional judicial examination and given their written consent to be appointed to a specific prosecution office.[89] An individual cannot be considered a person of integrity if s/he was sentenced for a deliberate crime (such as abuse of office by a public official or bribery). In order to demonstrate integrity, an extract from the Criminal Register not older than three months must be provided.

114. Applicant assistant prosecutors must hold a master's degree in law from a Slovak or foreign university, and have an impeccable record. An assistant prosecutor is a civil servant.[90] Following three years of continuous service, during which s/he is subject to continuous evaluation, candidates are entitled to sit an examination to qualify.

115. The vast majority of prosecutors however are recruited initially as trainees, for whom the requirements are the same as for assistant prosecutors. Vacancies are filled via a competition, organised according to the needs of a district or regional prosecution office. Competitions are announced by the Prosecutor General, usually on the web site of the General Prosecutor's Office. They are run by a Selection Committee composed of five members who are senior prosecutors appointed by the Prosecutor General, upon a proposal by the Prosecutors' Council. The competition consists of written and oral parts, records are kept and the protocol is signed by each of the Committee's members. The written part entails responding to questions and translating a text into a foreign language. Applicants receive points for each part of the written procedure. Interview before the Committee aims to verify the applicant's professional knowledge and practical experience in both the criminal and non-criminal fields of laws, verbal communication skills, linguistic and rhetoric skills, precise and proper use of legal terminology. An applicant is also asked to explain his/her motivations for performing the function of a trainee prosecutor. The Committee assesses the outcome of the selection procedure, determines the order of successful candidates and submits the results to the Prosecutor General for decision. A complaint may be submitted to the Prosecutor General asking that the procedure followed by the Selection Committee be reviewed.

116. Promotion of prosecutors is carried out on a competitive basis by the General Prosecutor. A special regulation has been issued for the selection of chief prosecutors which aims to verify knowledge, expertise, language skills, health, mental balance as well as other facts necessary or appropriate given the extent of the chief prosecutor's duties.[91] If none of the candidates have the skills necessary for the performance of office, or in the absence of candidates, the Prosecutor General, after consulting with the Prosecutors' Council, may proceed with appointments without holding a competition.

117. Prosecutors are appointed by the Prosecutor General for an indefinite term.[92] As previously mentioned, the Prosecutor General is appointed by the President of the Republic upon a proposal by Parliament for a seven-year term which is not renewable.

118. Evaluation of a prosecutor is mandatory in the case of a competition and disciplinary proceedings[93] but is not carried out on a regular basis. It is also performed at a prosecutor's request in connection with termination of office. Prosecutors are evaluated by heads of office as regards their professionalism in decision making, expediency of procedures, knowledge of generally binding regulations, professional standards and skills, and self-discipline. A prosecutor, who disagrees with the evaluation, may object to the head of office, and in case such a complaint is rejected by the latter, it is to be examined by the respective Prosecutors' Council.

[89] Section 6 APTP.
[90] Regulated by Act No. 400/2009 Coll. on civil service as amended.
[91] Section 20 APTP.
[92] Section 8 APTP.
[93] Section 31 ATPT.

119. The salary of a prosecutor consists of a basic salary and extra pay for the discharge of office.[94] The basic salary of a prosecutor at the Prosecutor General's Office corresponds to that of a Supreme Court justice and is equal to the 1.3-fold salary of a member of the National Council (EUR 3 065,40). The basic salary of prosecutors at district and regional prosecution offices is determined on the basis of an average set out by the valid legislation.[95] Pursuant to Section 95(3) APTP, the average salary of a prosecutor is the salary ranked as belonging to the first salary group, fourth salary grade (corresponding to the average salary of a judge determined by a separate law). The table below shows the basic salaries of prosecutors as of 1 January 2012:

Salary grade	**Years of experience**	**Salary group**			
		I.		**II.**	
1st	till the end of the third year of practice	85 %	2 004,30 €	90 %	2 122,20 €
2nd	from the beginning of the fourth year of practice	90 %	2 122,20 €	95 %	2 240,10 €
3rd	from the beginning of the seventh year of practice	95 %	2 240,10 €	100 %	2 358,00 €
4th	from the beginning of the tenth year of practice	100 %	2 358,00 €	105 %	2 475,90 €
5th	from the beginning of the thirteen's year of practice	105 %	2 475,90 €	110 %	2 593,80 €
6th	from the beginning of the sixteen´s year of practice	110 %	2 593,80 €	115 %	2 711,70 €
7th	from the beginning of the nineteen´s fourth year of practice	115 %	2 711,70 €	120 %	2 829,60 €
8th	from the beginning of the twenty second year of practice	120 %	2 829,60 €	125 %	2 947,50 €

120. Extra pay is provided for managerial duties and graded by office. Additionally, prosecutors are entitled to a monthly lump sum as compensation for executing prosecutorial duties equivalent to 1/12 of the half of a basic salary, as well as the so-called 13th and 14th salaries. Prosecutors are not entitled to any benefits, except for the service vehicles provided to the Prosecutor General and his/her deputies and covered by the budget of the General Prosecutor's Office. Annual control over relevant expenditure is carried out by the Supreme Audit Office. The average gross annual salary of a prosecutor at entry level is EUR 24,051.60 and that of the Prosecutor General - EUR 56,282.28. Over the last two years salaries have been frozen at the 2011 level.

[94] Section 94 APTP.
[95] Act No. 120/1993 Coll. on salary modalities for some constitutional officials of the Slovak Republic.

Case management and procedure

121. Prosecutors have a role in criminal as well as in civil and administrative cases. According to the Code of Criminal Procedure, prosecutors have the duty to prosecute all criminal offences that come to their knowledge and supervise investigations, their legality and speed. The organisation and management of work within the Public Prosecution Service are governed by orders of the Prosecutor General.[96] Cases are assigned at the district and regional level by heads of office and, at the level of the Prosecutor General's Office, by directors of departments and heads of divisions. The same officials also decide on the withdrawal and reassignment of cases. The APPS requires that instructions from a superior be provided in writing. In court proceedings, an inferior prosecutor is not bound by instructions issued by his/her superior in case of evidentiary change. In criminal and civil proceedings, a superior may not issue so-called "negative instructions,"[97] as they can only be performed by his/her direct superior. The APPS imposes an obligation on inferior prosecutors to disobey orders in cases where these would lead to the commission of a crime, offence, any other tort or disciplinary offence, provided this is duly reasoned in writing. A subordinate may disobey instructions also in other situations prescribed by law. If a subordinate prosecutor considers an order to be in conflict with law or his/her legal opinion, s/he may submit a reasoned written request asking for the withdrawal of the case, and such a request is to be satisfied by his/her superior. At any moment, a senior prosecutor may – by his/her reasoned decision provided in writing - take over a case or assign it to another subordinate. Practice shows that assignments are determined by specialisation and workload, and withdrawals occur due to the inability to act for a long period of time on a case for any reason. A decision of a prosecutor not to launch criminal proceedings or discontinue prosecution can be appealed to his/her superior whose decision is final.

122. Sections 5(d) APPS and 26(1)(c) APTP stipulate that prosecutors must act proactively and without delay.[98] The expedience of proceedings is evaluated, *inter alia*, in the course of inspections by the superior prosecution offices. It is admitted that procedural delays occur due to the high workload. In cases of identified violations, the prosecutors who are responsible are held to account.

123. The discussions on site indicated that in the exercise of their legislatively mandated activities prosecutors enjoy an appropriate level of autonomy and do not appear to be exposed to undue influence. Instructions must be in writing so their legality can be controlled if necessary. The APPS contains a catalogue of guarantees of such non-interference, including an extensive list of prohibited undue (negative) instructions.[99] The existing rules are clear and unambiguous and appear to meet the requirements of impartiality and independence.

Ethical principles and rules of conduct

124. Basic ethical rules are contained in Section 26 APPS that obliges prosecutors to observe the rules of prosecutorial ethics, carry out duties conscientiously and objectively, maintain dignity and protect the authority of office, not harm or favour parties to the proceedings, resist pressure by public opinion and the media, reject any interference,

[96] No. 6/2012 of 29 February 2012.
[97] In criminal proceedings, a superior may not instruct his/her subordinate not to initiate or stop prosecution, not to bring an accusation, not to file a motion for a defendant's remand in custody, not to bring an appeal against the defendant, not to file an action or refer the case to another authority. In civil proceedings, a superior may not instruct not to file a motion to initiate the proceeding, not to enter into the proceeding already commenced, not to bring an appeal against a court's decision in such proceeding, not to file a protest or make a notice.
[98] In addition to the Constitution and the Criminal Procedure Code which safeguard the right to a fair trial.
[99] Issuing an unlawful instruction may trigger the commencement of disciplinary proceedings and, where such an instruction is issued with a view to unduly influencing proceedings, criminal proceedings may also be launched (under Articles 340 and 341 of the Criminal Code which establish criminal liability for failure to report or stop the commission of a criminal offence).

coercion or request and refrain from anything that may harm the authority of the Service or undermine confidence in its impartiality. After the on-site visit, the GET was informed that, in September 2012, an Ethics Code was adopted by the General Council of Prosecutors but no measures for its binding application in practice have been implemented so far.

125. Similarly to judges and members of Parliament, interviews with representatives of the Public Prosecution Service highlighted their lack of awareness of the notions and principles of organisational ethics. The GET heard examples of highly generalised axioms as regards expected behaviour, namely that a prosecutor would "know right from wrong", for example, "not to drive drunk". It was not readily accepted that, in the criminal justice system, where prosecutors enjoy substantial powers and are able to affect individual liberties, their discretional decisions such as, for example, which charges to press or when to offer leniency in exchange for a plea bargain, should, in addition to relevant provisions of the Criminal Procedure Code, be subject to regulation as a matter of professional ethics. Although under Section 26 APPS prosecutors are bound by the rules of prosecutorial ethics, this provision is not sufficiently detailed to serve as a guide to ethics and conduct of the profession. Also, apart from their superiors, there is no body from which a prosecutor could seek advice or guidance on ethical dilemmas, and no dedicated training focused on the ethical dimensions inherent to prosecutorial duties is available on an on-going basis. As concerns the 2012 Ethics Code, none of the prosecutors whom the GET met on site seemed to be aware of its existence, which only re-confirms the desirability of a broad and inclusive debate within the Service on the ethical dimensions of prosecutorial duties. It is furthermore regrettable that opportunities to assess the comprehensiveness of the Code and the potential effectiveness of its implementation mechanism were not afforded to the GET. GRECO is convinced that, in systems where prosecutors have greater independence, they carry greater responsibilities and are to demonstrate high standards in decision-making and professional conduct. For this reason, clear, formal, enforceable, publicly-stated standards for professional conduct in the form of a Code are fundamental for expressing the values of the Public Prosecution Service to its employees as well as upholding and enhancing ethical behaviour recognised as necessary for the proper and independent execution of prosecutorial duties. Regular monitoring is an appropriate way to ensure the observance of such rules. Furthermore, making the Code available to the public would further strengthen the image of the Service and increase public confidence in its autonomous mandate. In view of the foregoing, **GRECO recommends 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.**

Conflicts of interest

126. In respect of the Prosecutor General, in his/her capacity as public official, conflicts of interest are regulated by the previously mentioned Constitutional Act on the Protection of Public Interest in the Performance of Offices by Public Officials (PPI).[100] As concerns all other prosecutors, Section 26 APTP sets out an obligation to protect and serve the public interest, not be swayed by personal or partial interest or that of political parties or movements, and refrain from providing legal consultancy services or representing third parties in proceedings before courts or state authorities. Violation of the APTP triggers the launching of disciplinary proceedings. Additionally, prosecutors are to recuse themselves on the basis of Section 31 of the Criminal Procedure Code and Section 52 APPS if there are reasonable grounds to question their impartiality.

[100] Sections 3-8 PPI, see above under "Corruption prevention in respect of members of Parliament".

127. It is widely acknowledged that, among ethical issues, few are more pervasive than conflicts of interest. From this perspective insufficient attention paid to their prevention and management within the Public Prosecution Service is disconcerting. No definition or typology of conflicts of interest has been developed, and the notions of "personal" and "partial" interests appearing in the APTP are yet to be clarified. Also, it would appear that no formal mechanism or procedures to mitigate potential or address actual conflicts of interest within the Service have been established. Likewise, information on the frequency of disqualifications by prosecutors and the way in which this affects the allocation or transfer of cases within the Service is neither collected nor analysed on an on-going basis (see paragraph 131 below). The significant challenge of actual and potential conflicts of interest needs to be formally recognised. Conflicts may arise not only from prosecutors' relations with current and former parties to the proceedings, but also from their financial or other activities. The situation is often compounded by the lack of choice as regards the specific prosecution office or prosecutor to which/whom a particular case can be assigned. Bearing in mind the aforementioned concerns, **GRECO recommends that guidelines on the prevention and management of actual and potential conflicts of interest be elaborated within the Public Prosecution Service.** Such guidelines could, for example, become part of a revised version of the Ethics Code. Furthermore, the authorities are advised to clarify the language of the applicable regulations so as to more clearly define the circumstances that would qualify as a conflict of interests.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities

128. Limitations on the exercise of auxiliary activities are laid down in the Constitution[101] and the APTP. Regarding public functions, the office of prosecutor is incompatible, *inter alia*, with membership of Government, Parliament, posts of President, State Secretary, Constitutional Court justice and judge of any general court of law, the Supreme Audit Office's Chair and Vice-Chair, head of a central state administrative body, a position in the Slovak Information Agency, Police or other armed corps, local government body and corporate body of a legal entity performing functions for the state.[102] Should such an office be accepted, service as a prosecutor is to be interrupted. For private sector activities, prosecutorial duties are incompatible with other salaried functions, business or commercial activities or receipt of income from any sources, except for income resulting from the administration of one's own property or that of one's children (minors) and from scientific, pedagogic, lecturing, literary, publishing and art activities, provided this has no influence on the proper performance of the prosecutorial functions and dignity and impartiality of the prosecution service.[103] In case of doubt, the Prosecutor General may order a prosecutor to give up or suspend the auxiliary activity.

129. Upon appointment to office, and subsequently by 31 March each year, a prosecutor is to submit a written affidavit to the Prosecutor General's Office confirming: (1) his/her citizenship and permanent residence in the Slovak Republic; (2) absence of charges for criminal offences or proceedings leading to limitation or deprivation of legal capacity; (3) non-membership of a political party or movement and non-involvement in political activities; (4) compliance with the limitation on the exercise of additional activities as detailed above; and (5) non-performance of other paid office or other employment incompatible with the prosecutor's duties.[104] The affidavit is to include a statement on the performance of scientific, teaching, lecturing, literary, publishing or artistic activities, including information on the natural/legal person for whom/which such activities have been performed as well as related income and benefits for the previous calendar year.

[101] Article 54 of the Constitution allows for a limitation of the right to engage in entrepreneurial and other business activities.
[102] Sections 11 and 12 APTP.
[103] Section 11 (2) APTP. Similarly to judges,
[104] Section 27 APTP.

The affidavit must indicate if the reported data cannot be proven, and any changes as to its contents are to be notified within three days. The affidavit is to be published annually, on the 30th June, on the Prosecutor General's Office web site,[105] in accordance with the Personal Data Protection Act. As concerns the Prosecutor General, who is a public official under the PPI, in place of the affidavit, s/he is to submit a declaration of offices, employment positions, activities and economic standing to the Committee on the Incompatibility of Functions of the National Council (alongside members of Parliament and selected categories of judges).[106]

130. Despite the fact that the affidavits of all prosecutors are published on the Prosecutor General's Office web site, an affidavit can only be found if searched by a prosecutor's first and last names. According to the information gathered on site, prosecutors' names are disclosed neither on the prosecution offices' web sites nor on the web site of the Prosecutor General's Office. Furthermore, to obtain such names upon request based on the Freedom of Information Act has proven impossible as they are protected by law, except for the names of chief prosecutors responsible for various offices which are published on the web site of the Prosecutor General's Office. This renders access to affidavits, which it is claimed are public documents, virtually impossible in practice. The authorities are strongly in favour of the present regime. In their opinion, the monitoring of prosecutors' accessory activities and assets is not a matter of public control and, if introduced, would interfere with their and their families' privacy and security. In the opinion of GRECO, however, the function of a prosecutor (as well as that of a judge) is to be performed in the public interest therefore there is no reason for the names of prosecutors to be shielded by confidentiality rules. Also, the fact that the affidavits are deemed to be public documents but are not easily accessed by the public is contradictory and needs to be addressed. The same applies to the prosecutors' asset declarations described in paragraphs 136 and 137 below. Consequently, **GRECO recommends 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.**

Recusal and routine withdrawal

131. As concerns the grounds for removal from a case, previously mentioned Section 31 of the Criminal Procedure Code which is applicable to judges, is also relevant for prosecutors[107] and is mirrored by Section 52 APPS, which also sets the procedure for a prosecutor's disqualification from proceedings or decision-making. A prosecutor may recuse him/herself or is to be disqualified following a motion by a party. Additionally, prosecutors are not allowed to act in a case in which they have a personal interest.[108] Such practice constitutes the grounds for the immediate withdrawal of the case and its assignment to another prosecutor. As in the case of judges, information on the frequency of disqualifications and the way in which they affect the allocation or transfer of cases is not specifically collected or analysed.

Gifts

132. With the exception of the Prosecutor General who may not accept gifts, save customary ones, in his/her capacity as a public official under the PPI, there is no ban on the acceptance of gifts by prosecutors. However, if the acceptance of a gift violates the duties of a prosecutor under Sections 5 APPS or 26 APTP, a disciplinary sanction, including dismissal from office, may be imposed. Additionally, commission of a criminal

[105] http://www.genpro.gov.sk/prokuratura-sr/majetkove-priznania-30a3.htm.
[106] Section 7 PPI, see above under "Corruption prevention in respect of members of Parliament".
[107] See above under "Corruption prevention in respect of judges".
[108] Section 26 APTP.

offence of bribery or abuse of office (Articles 326 and 328-336 of the Criminal Code) entails criminal responsibility and carries criminal sanctions.

133. While on site, representatives of the Prosecution Service met by the GET stressed the view that accepting gifts in their official capacity was prohibited, even though such a ban could not be directly inferred from the above provisions, which essentially proscribe certain acts which may or may not lead to the acceptance of a gift by a prosecutor. Since gifts are already subject to regulation in regard to the Prosecutor General in his/her capacity as a public official, as well as public and civil servants[109] (i.e. assistant prosecutors), there is no justification for not formally regulating the same issue also in respect of other categories of prosecutors. Although the GET was under the impression that prosecutors do not consider it permissible for them to accept gifts, it is convinced that strict and unambiguous regulation of gifts would help buttress professional standards of conduct within the Public Prosecution Service. Accordingly, **GRECO recommends that the acceptance, reporting and management of gifts by all categories of prosecutors while performing their duties be regulated.**

Post-employment restrictions

134. Except for the Prosecutor General who is subject to a one-year "cooling off" period imposed by Section 8 PPI, there are no regulations that would prohibit prosecutors from being employed in certain posts or functions or engaged in other paid or non-paid activities following their resignation from office. Although, while on site, no concerns were raised with the GET regarding the acceptance by prosecutors of outside employment subsequent to taking an improper advantage of their office, as in the case of judges, it would be advisable for the authorities to contemplate the introduction of rules to preclude situations of recruitment of former prosecutors to the private sector which could give rise to conflicts of interest.

Third party contacts and confidential information

135. Communication between a prosecutor and a third party is governed by a number of prohibitions included in Section 26 APTP, namely, bans on the provision of legal aid services, the sharing of information contained in a file, informing a third party of the circumstances of a case, acts leading to conflicts of interest - particularly those resulting from the misuse of information acquired in connection with performance of a prosecutor's duties for his/her benefit or that of another person. In regard to matters learned in connection with his/her office, the duty of confidentiality applies also after a prosecutor's service is terminated, unless s/he is lawfully released therefrom. Violations of the aforementioned bans entail disciplinary liability. Additionally, abuse of office and jeopardising the safety of classified, confidential or restricted information carry criminal liability in accordance with Articles 326, 319-320 and 353 of the Criminal Code.

Declaration of assets, income, liabilities and interests

136. Prosecutors are not prohibited from holding any financial interests but are subject to notification and disqualification in case of a conflict of interests. Furthermore, they are to declare their financial circumstances to the Prosecutor General within 30 days from taking office, on an annual basis and within a period prescribed by the Prosecutor General (in case of doubt regarding the completeness or correctness of the declaration already submitted).[110] The nearly identical rules described above in respect of judges apply.[111] The declaration of financial circumstances by the Prosecutor General is subject

[109] As per Section 61(1)(b) of Act No. 400/2009 on Civil Service of16 September 2009, and Section 8(2)(c) of Act No. 552/2003 on Performing Work in the Public Interest of 6 November 2003, as well as the Code of Ethics for Civil Servants.
[110] Section 28 APTP.
[111] See above under "Corruption prevention in respect of judges".

to rules included in the PPI and described above.[112] All declarations are to be published on the web site of the Prosecutor General's Office by 30 June of each year, in accordance with the Personal Data Protection Act.

137. In its observations regarding asset declarations of judges, GRECO called upon the authorities to establish an obligation to report liabilities and gifts above a certain threshold. For the sake of optimum transparency and consistency in respective obligations, the introduction of similar requirements also in respect of prosecutors would seem logical. Consequently as part of the asset declaration regime, **GRECO recommends introducing an obligation on prosecutors to declare liabilities (e.g. debts and loans) and gifts above a certain threshold.** Concerning the existing limitations hampering practical access to prosecutors' asset declarations, GRECO refers back to the recommendation in paragraph 130, which stresses the need to make such declarations publicly accessible in practice, due regard being had to the privacy and security of prosecutors and their family members.

Supervision and enforcement

Supervision over auxiliary employment and asset declarations

138. As already mentioned, it is the Prosecutor General who exercises control over compliance by prosecutors with the rules on accessory activities and asset declarations. Compatibility of any activity with prosecutorial duties is evaluated from the point of view of its relation to each function or activity performed by a prosecutor, regard also being had to the good reputation, competences and risks to the prosecution service as well as the duties of the prosecutor as regulated by Section 26(1) APTP. In case of doubts concerning the completeness or accuracy of an affidavit, the Prosecutor General may request supplementary clarifications within not more than 15 days. In case of similar doubts regarding an asset declaration, s/he may request that the lawful acquisition of funds be proven within 30 days by means, for example, of a confirmation of income sources, bank statement, etc. An additional period of not more than 30 days may also be provided. Five employees within the Prosecutor General's Office are responsible for dealing with declarations, including their verification. Prosecutors entitled to access classified information are subject to more detailed checks, including of their property, during the security clearance process carried out by the National Security Office.

139. Failure to comply with the obligation to declare assets, including false or incomplete declaration, is liable to disciplinary sanctions, including dismissal from office. Disciplinary measures are: (a) reprimand; (b) written reprimand; (c) reduction of a basic salary by up to 15% for a period of up to three months (and in case of a repeated offence, up to six months); (d) removal from office of a chief prosecutor; (e) transfer to another office at the same or lower level (in the case of the Special Prosecution Office, transfer to another organisational unit within the Prosecutor General's Office or lower office); and (f) removal from office.[113] Final decisions on misconduct resulting in a wilful failure to submit an asset declaration, deliberate submission of an incomplete or false declaration and wilful failure to prove the acquisition of funds used for the purchase of the property declared may be published by the Prosecutor General on the official web site of his/her Office, in the Office's Information Bulletin, in the press or by any other means.

140. The compliance of the Prosecutor General with the rules on auxiliary employment and declaration of offices, employment positions, activities and economic standing is monitored by the Committee on the Incompatibility of Functions of the National Council in the scope and manner also established for members of Parliament and selected categories of judges (see paragraphs 47-48 and 96 above).

[112] See above under "Corruption prevention in respect of members of Parliament".
[113] Article 189 ATPT.

141. On the whole, monitoring of additional employment and asset declarations of prosecutors (with the exception of the Prosecutor General) appears to be adequate both in terms of stringency of the verification process and the manpower and resources available for this purpose within the Prosecutor General's Office. No shortcomings in the existing legislation or its practical implementation came to the notice of the GET. As concerns supervision over auxiliary employment and assets of the Prosecutor General, the recommendation contained in paragraph 52 above is meant to remedy the identified deficiencies in the operation of the Parliamentary Committee on the Incompatibility of Functions and to enhance the rigorousness of this important monitoring mechanism in respect of all public officials falling under its purview, including the Prosecutor General.

Other duties

142. In a system of hierarchical subordination, senior prosecutors are entrusted with the supervision of subordinate prosecutors; therefore disciplinary measures are usually initiated by the superior of the prosecutor concerned. Prosecutors are disciplinarily liable for (1) failure or breach of duties, (2) conduct raising reasonable doubts about their impartiality and dutifulness in decision-making, and (3) public conduct undermining respect in the prosecutor's office.[114] Cases are heard by a Disciplinary Commission set up at the Prosecutor General's Office and composed of a chair and four members. Members and their alternates are appointed for a three year term by the Prosecutor General, upon proposal by the Prosecutors' Council. The Commission is quorate if its members or their alternates are present and decisions require the majority of votes cast by secret ballot. A member of the Commission in respect of whom there are doubts concerning his/her impartiality is to be excluded from the hearing. To clarify facts, the Commission may seek the opinion of the prosecutor, request documents, etc. With regard to the evidence of a crime, it is to notify a law enforcement agency, in which case the disciplinary proceedings may be discontinued. The hearing and the pronouncement of the decision are public. The decisions may be appealed before court, except for those requesting that a prosecutor be reprimanded in writing for minor lapses which may be challenged, firstly, before the Commission and only then before court. In so far as the Prosecutor General is concerned, disciplinary proceedings against him/her are conducted by the Constitutional Court.[115]

143. In 2008, 14 disciplinary proceedings were initiated against prosecutors, 3 of them for delays in proceedings, 1 for breach of professional ethics, 1 for delays and shortcomings in the handling of the agenda, 1 for breach of duties. In 2009, of the 23 disciplinary proceedings, 14 were new cases and 9 were pending from 2008. In 2010, of the 22 disciplinary proceedings, 16 were new cases and 6 cases were pending from 2009 (including 1 for breach of professional ethics and 6 for breach of duties). The 7 sanctions imposed included 1downgrading, 2 reprimands and 3 temporary reductions in salary.[116] In 2011, of the 22 disciplinary proceedings, 14 were new cases, 7 cases were pending from 2010 and 1 was pending from 2009. Final decisions were reached in 5 cases, finding a failure/breach of duties (4 of which related to delaying the proceedings). In 2012, of the 15 disciplinary proceedings, 5 were new cases, 8 cases were pending from 2011 and 2 cases were pending from 2010. Twelve were finalised and 3 discontinued. A 15% reduction in basic salary for 3 months was imposed in 2 cases, a reprimand was issued in 5 cases, 1 led to an acquittal and a fine of 300 Euros accompanied by a prohibition to drive a vehicle for 24 months was imposed in 1 case. So far in 2013, of the 19 disciplinary proceedings conducted, 10 were new cases, 4 were pending from 2012, another 4 from 2011 and 1 was pending from 2010. Two of the cases concerned delays in proceedings, 3 concerned delays and a failure to act by the prosecutor, 2 a failure to fulfil an obligation, 1 a breach of prosecutorial obligations and 1 inadequate behaviour

[114] Section 188 APTP.
[115] Article 136 of the Constitution.
[116] Fourth Evaluation Report on European Judicial Systems, European Commission for the Efficiency of Justice (CEPEJ), 20 September 2012.

that gave rise to doubts regarding the "consciousness and impartiality" of a prosecutor. In addition, the police have forwarded a case of suspected abuse of power by a public official. At the time of writing, 4 disciplinary proceedings have been finalised and 3 discontinued and a 10% reduction in basic salary for 2 months has been imposed in one case. Since January 2012, all final decisions of the Disciplinary Commission have to be published on the web site of the Prosecutor General's Office's within three days from the day when the decision became final.[117] Personal data contained in the published decision is anonymised.

144. There are no special criminal proceedings applicable to prosecutors, except for the Prosecutor General whose prosecution and detention may only be authorised by the Constitutional Court.[118] Prosecutors who are accused of an aggravated abuse of office or a corruption offence listed under Sections 326 and 328-336 of the Criminal Code are to be tried by the Specialised Criminal Court. Sanctions available in such cases include imprisonment and dismissal. Between 1 January 2003 and 31 August 2013, 9 prosecutors were prosecuted for accepting a bribe (Section 329 of the Criminal Code) and related criminal activities. Final verdicts rendered in 2 of those cases led to convictions and 2 were pending before the appellate courts, 1 prosecutor was acquitted, in 2 other cases of acquittal appeal procedures were pending and in 2 other cases criminal prosecution was underway. Information regarding some criminal prosecutions of prosecutors in relation to acts of corruption is included in the annual activity reports of the Prosecution Service submitted by the Prosecutor General to the National Council. Reports are made public on the web site of the Prosecutor General's Office.

145. GRECO finds the rules on misconduct of prosecutors to be largely satisfactory. Prosecutors do not enjoy immunity from prosecution for criminal conduct. Disciplinary proceedings are statutorily based and appear to provide a solid ground not only for decisions on misconduct but also their independent and impartial review. The only concern that GRECO has relates to the composition of the Disciplinary Commission already addressed in paragraph 112 of this Report.

Advice, training and awareness

146. Prosecutors obtain information on the conduct expected of them, in the course of their traineeship and service as assistant prosecutors, which is then tested during an examination to qualify. More experienced prosecutors are subject to mandatory professional development[119] which, according to the authorities, also includes an ethical component and specialised courses on corruption offences. Initial and on-going training are assured and advice is provided by the previously mentioned Judicial Academy,[120] however only the initial training is compulsory. GRECO notes that retaining the system of traineeships in various positions within the Service under the guidance of a tutor has provided safeguards as regards integrity and enabled the recruitment of good candidates. Nevertheless, in view of the lack of dedicated and consistent attention to integrity, ethical duties and conflicts of interest, investing supplementary efforts and resources in training, advice and counselling for prosecutors throughout their career, as a corollary to the promotion and enforcement of the Ethics Code as required by the recommendation in paragraph 125 above, would be an asset.

147. On 1st October 2012, anti-corruption hot-lines (e-mail and telephone) were established to enable the reporting of suspicions of corruption involving prosecutors, employees of the Prosecution Service, as well as any other state administration officials and staff. Contact information is published on the Prosecutor General's Office web site, whereas hotlines themselves are administered by the Special Prosecution Office.

[117] Section 55m(2) APPS.
[118] Article 136 of the Constitution.
[119] Section 26(1)(g) APTP.
[120] See above under "Corruption prevention in respect of judges."

148. The Prosecution Service has furthermore participated in a European Anti-Corruption training project (2011-2013) involving Austria, Slovenia and the Slovak Republic, with a focus on the prevention, identification and investigation of corruption and international co-operation.

VI. RECOMMENDATIONS AND FOLLOW-UP

149. In view of the findings of the present report, GRECO addresses the following recommendations to the Slovak Republic:

Regarding members of parliament

i. **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** (paragraph 25);

ii. **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** (paragraph 32);

iii. **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** (paragraph 39);

iv. **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** (paragraph 46);

v. **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** (paragraph 52);

Regarding judges

vi. **that decisions to remove court presidents be reasoned, that they follow appropriate removal proceedings and are made subject to judicial review** (paragraph 63);

vii. **that (i) in order to strengthen the independence of the judiciary from undue political influence, to provide in law for not less than half the members of the Judicial Council to be elected by their peers; and that (ii) the transparency in the functioning of the Judicial Council and judicial self-governing bodies (notably the disciplinary commissions and Selection Committee) be further improved** (paragraph 69);

viii. **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** (paragraph 85);

ix. **that a focused policy for preventing and managing conflicts of interest and corruption risks within the judiciary be elaborated and properly enforced** (paragraph 87);

x. **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** (paragraph 94);

xi. **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** (paragraph 98);

Regarding prosecutors

xii. **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** (paragraph 125);

xiii. **that guidelines on the prevention and management of actual and potential conflicts of interest be elaborated within the Public Prosecution Service** (paragraph 127);

xiv. **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** (paragraph 130);

xv. **that the acceptance, reporting and management of gifts by all categories of prosecutors while performing their duties be regulated** (paragraph 133);

xvi. **introducing an obligation on prosecutors to declare liabilities (e.g. debts and loans) and gifts above a certain threshold** (paragraph 137).

150. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Slovak Republic to submit a report on the measures taken to implement the above-mentioned recommendations by 30 April 2015. These measures will be assessed by GRECO through its specific compliance procedure.

151. GRECO invites the authorities of the Slovak Republic to authorise, at its earliest convenience, the publication of this report, to translate the report into its national language and to make the translation publicly available.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at www.coe.int/greco.