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FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies

EVALUATION REPORT

SERBIA

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in Serbia to prevent corruption amongst persons with top executive functions (president, ministers, senior officials and advisers) and members of the police. It aims to identify weaknesses that need addressing and positive developments that should be sustained in order to assist the Serbian authorities in strengthening their prevention efforts in line with GRECO standards.

2. The Agency for the Prevention of Corruption (APC) plays a central role in many areas (public bodies' integrity plans to offset corruption, public officials' asset declarations, training and advice, lobbying rules, etc.). Its action is based on the Law on the Prevention of Corruption (LPC), which imposes requirements on public officials, and the Law on Lobbying. The notion of public officials within the LPC is broad and includes most persons with top executive functions (PTEFs). However, in order to be comprehensive, it should also cover the Prime Minister's and Deputy Prime Ministers' chiefs of cabinets and advisers working for ministers, both roles being closely associated with government decision-making. In parallel to the APC, the role of the Anti-Corruption Council in analysing legislation and identifying systemic problems should be fully acknowledged and put to good use to further prevention.

3. Regarding PTEFs, which includes the President owing to his involvement in executive decisions, there are a number of issues that would need to be further improved. A public strategy on corruption prevention covering explicitly PTEFs should be developed, with clear goals and an assessment of their achievement. In order to prevent risks of conflicts of interest in government, integrity checks should be carried out as part of appointment procedures. More generally, integrity standards responding to the specific functions of PTEFs should be collected in a code of conduct, accompanied by practical guidance and sanctions in case of breach. In connection with these standards, systematic and regular briefing and training of PTEFs should be organised. Furthermore, asset declarations of PTEFs should systematically be the subject of substantial control by the APC. While there has been recent progress, further efforts are required to increase the transparency of the legislative process in connection with government initiatives, notably regarding their legislative footprint. Similarly, more transparency is needed on contacts of PTEFs with lobbyists, with a broader definition of lobbying and regular reports on contacts. In the same vein, rejections of requests for information from the Government and Presidential administration should be open to appeal with the Commissioner for Information of Public Importance and Personal Data Protection, which is currently not the case. Moreover, in view of the low level of prosecution, the immunity provided to Government members ought to exclude corruption-related offences.

4. As to the police, a public strategy on corruption prevention in the police should first of all be adopted, based on identified risk areas and setting out clear goals. Measures should also be taken for a more open and transparent procedure for the appointment of the Chief of Police and other senior management posts. The existing Code of Police Ethics needs revamping in order to cover all relevant integrity topics and be accompanied by practical examples. Training for new recruits and serving police officers should be based on this revised code and be compulsory for all. Further measures should also be taken all along the career of police officers to ensure that regular vetting takes place, and that rotation is organised in risk-prone areas. Additionally, control over secondary activities should be tightened and organised at regular intervals. The framework around gifts should also be stronger with them being duly recorded. Moreover, safeguards should ensure sufficiently independent and transparent investigations into police complaints. Finally, additional efforts are needed to encourage whistleblowing.

II. INTRODUCTION AND METHODOLOGY

5. Serbia joined GRECO in 2003. Since its accession, Serbia has been subject to evaluation in the framework of GRECO's Joint First and Second (in June 2006), Third (in October 2010) and Fourth (July 2015) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.[1]

6. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Serbia to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Serbia, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Serbia shall report back on the action taken in response to GRECO's recommendations.

7. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Serbia from 6 to 9 September 2021, and reference was made to the responses by Serbia to the Evaluation Questionnaire, as well as other information received, including from civil society. The GET was composed of Ms Theodora PIPERI-CHRISTODOULOU, Counsel of the Republic A', Law Office of the Republic (Cyprus), Mr Holger SPERLICH, Government Director, Permanent Representation of the Federal Republic of Germany to the European Union (Germany), Ms Anna MARGARYAN, Chair of Criminal Law and Criminology, Yerevan State University (Armenia), Mr Staffan NYSTRÖM, National Coordinator, Police Authority (Sweden). The GET was supported by Mr Gerald DUNN of the GRECO Secretariat.

8. The GET met representatives of the General Secretariat of the President of the Republic, the Prime Minister's Cabinet, the Ministry of Justice, the Ministry of the Interior, the Ministry of Public Administration and Local Self-Government, the Ministry of Finance, the Public Policy Secretariat, the National Assembly, the Republic Prosecutor General's Office, the Prosecutor's Office for Organised Crime, the Corruption Prevention Agency, the Anti-Corruption Council, the State Audit Institution, the Commissioner for Information of Public Importance and Personal Data Protection, the Protector of Citizens, the European Union Delegation in Serbia, the OSCE Office in Serbia, the United Nations Office in Belgrade, and the Council of Europe Office in Belgrade. It also met representatives of non-governmental organisations, investigative journalists and a trade union.

[1] More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's website.

III. CONTEXT

9. Serbia has been a member of GRECO since 2003 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption. Serbia initially had a positive track record in implementing GRECO recommendations: in the Joint First and Second Evaluation Round 80% of the recommendations were ultimately fully implemented (the remainder being partly implemented) and in the Third Evaluation Round 93% of the recommendations were fully implemented (the remainder being partly implemented). Serbia is currently undergoing a compliance procedure in the framework of the Fourth Evaluation Round covering members of parliament, judges and prosecutors. In the latest compliance report (Second *Interim* Compliance Report), 61.5% of recommendations had been fully implemented and 38.5% partly implemented, the recent constitutional amendments concerning the independence of the judiciary having improved the level of implementation.

10. Corruption is widely perceived as pervasive in Serbia. In the Corruption Perception Index put together by Transparency International, Serbia ranks 38 in 2020, its lowest rank since 2012. In 2021, House of Freedom rated Serbia 1 out of 4 for the effectiveness of safeguards against corruption, noting that while the number of arrests and prosecutions for corruption had risen in recent years, high-profile convictions were very rare in spite of reports involving the members of the Executive. They contend that the responsibility for prosecuting corruption cases has been passed among different public prosecutors, who usually considered that the police had supplied insufficient evidence in cases against government ministers. More generally, the global freedom rate (covering political and civil rights) went down from 76/100 in 2018 (considered as "free") to 64/100 in 2021 (considered as "partly free").

11. Several high-profile cases involving ministers concerned opaque privatisation, suspicion of money laundering and ties with criminal organisations. However, in the cases of ministers and assistant ministers involved there has been no decision of lifting immunity, since at the time the procedures against them were initiated, they were not holding their office anymore. Moreover, a whistleblower having denounced the father of the Minister of Defence regarding the purchase of arms from the State at reduced rates was arrested in September 2019 and was still under investigation in September 2020, with the risk of a chilling effect on whistleblowing.

12. In 2020, the opposition boycotted the legislative elections as a sign of protest against what they contended was the absence of a level playing field for the campaign, arguing that the party in power was using its position and public resources to conduct their campaign. As a result, the party in power won by a landslide and together with its coalition partner swept 243 seats out of 250. This has led many observers to consider that the checks and balances were therefore disrupted.

13. Until the recent constitutional reform, which needs to be implemented, the judiciary, including both judges and prosecutors, was found to lack sufficient independence from the Executive and legislative powers as developed in GRECO's Fourth Round Evaluation Report and subsequent compliance reports.

IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

System of government

14. The Republic of Serbia is a multi-party parliamentary republic. The principle of separation and balance of powers is enshrined in Article 4 of the Constitution. Legislative power is vested in the National Assembly of Serbia, which is unicameral and composed of 250 members for a four-year term.[2]

The President

15. The Head of State of Serbia is the President, who according to the Constitution represents the unity of the Republic of Serbia (Art. 111).[3] The executive power is vested in the government by the Constitution (Art. 122). The competences of the President are determined by Article 112 of the Constitution, which provides, *inter alia*, that s/he represents the Republic of Serbia domestically and abroad, proposes a candidate for Prime Minister to the National Assembly, appoints and dismisses ambassadors, grants pardons and is Commander-in-Chief of the Armed Forces. When it comes to legislation, the President can either promulgate a law or return it for reconsideration with a written explanation to the National Assembly (Art. 109, Constitution), within 15 days of its adoption (or seven days, if the law has been adopted under emergency procedure). When s/he returns it for reconsideration, the National Assembly can adopt the law unchanged with a majority of all deputies; the President must then promulgate it (Art. 113, Constitution). The President is directly elected for a term of five years, renewable once. S/he can only be dismissed for violation of the Constitution, upon a decision by the National Assembly with a two-third majority. The Constitutional Court is to establish such a violation, within 45 days of the procedure for dismissal having been initiated (Art. 118, Constitution).

16. The General Secretariat, headed by a Secretary General – who has the same powers as a minister (Art. 27, Law on the President) – assisted by a Deputy, provides professional and technical support to the President, ensuring cooperation with other state bodies and local and regional authorities. The President is also supported by a Chief of Cabinet and advisers, who are all appointed and dismissed by him (as are the Secretary General and Deputy Secretary General) (Art. 28, Law on the President), and various civil servants and state employees.

17. GRECO agreed that a head of State would be covered by the 5th evaluation round under the "central government (top executive functions)" where that individual actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure and taking decisions on the appointment of individuals to top executive functions. The GET notes that the Serbian authorities do not regard the President to fall within the category of PTEFs for the purpose of this evaluation.

[2] See GRECO's Fourth Round Evaluation Report on Serbia, in particular paragraphs 21-24.
[3] The current President is Aleksandar Vučić. He was elected on 2 April 2017 and took office on 31 May 2017.

18. The GET notes that the President is not only the Head of State, exercising purely ceremonial functions, but is also involved in the exercise of executive powers. Firstly, the President contributes to the way the country's foreign affairs are conducted, in particular on EU membership negotiations, international contracts and dialogue with Kosovo*. He appears as the prime interlocutor for foreign presidents and heads of government to discuss not only foreign policy, but also domestic matters and commercial cooperation.[4] Furthermore, he chairs the National Security Council (NSC), which deals with security and executive topics. By way of example, the President led the press conference held after a recent meeting of the NSC, where he stated that the topics discussed included action against criminal organisations, the Covid-19 vaccination strategy, procurement of new equipment for the Ministry of the Interior Affairs and the Army, and investigations into recent murders committed in Belgrade.[5] It was the President that declared the state of emergency as a result of the Covid 19 pandemic, rather than the National Assembly (Art. 200, Constitution). He influences the work of the Government and, for example, asked the withdrawal of a Government bill[6] or made announcements on practical measures to tackle the pandemic (such as curfews) or to manage energy prices. He can also send back a law to the National Assembly if, upon analysis of his administration, he considers that the draft law does not "regulate the area in an appropriate manner", which he has recently done for a Government draft law pertaining to the environment. Moreover, the press release reporting the most important decisions of Government is issued in coordination with the cabinet of the President. The President appears to be present at public sessions of the Government. He was also actively involved in the discussion on the recent constitutional reform pertaining to the judiciary.

19. In addition, the President has remained the leader of the ruling party, which holds an overwhelming majority in the National Assembly, and as such is involved in elections campaigns, which is at odds with a system where the president should not be involved in partisan discourse and represent the unity of the nation. He publicly announced general elections in 2022, two years earlier than the normal term, before the Government was formed and although the Constitution gives this prerogative to the Government.[7] As leader of the main party in the National Assembly, not only did he pick the Prime Minister but he also had direct influence on the Government's programme. In addition, he is significantly more present in the media than the Prime Minister, regularly commenting on executive matters (public procurement, investments, and spending).[8] Combined with the fact that the President is elected by direct universal suffrage, this contributes to presenting the President as directly involved with daily executive functions and, during the visit, the GET was told by all non-governmental interlocutors that the public clearly identifies the President as the main political actor in the country.

20. In the light of the above, the President of Serbia and the persons directly advising him (Secretary General, Deputy Secretary General, Chief of Cabinet and advisers) can be

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

[4] https://rs.n1info.com/english/news/merkel-go-further-in-legal-reforms-pluralism-vucic-thank-you-for-everything/; https://www.elysee.fr/emmanuel-macron/2021/02/01/declaration-du-president-emmanuel-macron-avec-le-president-de-la-republique-de-serbie-aleksandar-vucic; https://www.rferl.org/a/putin-vucic-gas-weapons/31579354.html; https://www.vindobona.org/article/vuci-hosted-kurz-the-fight-against-illegal-migration

[5] https://www.predsednik.rs/en/press-center/news/session-of-the-national-security-council; https://www.srbija.gov.rs/vest/en/168877/serbia-will-deal-with-crime-preserve-stability.php

[6] Vulin: At Vučić's request, the Draft Law on Internal Affairs was withdrawn (n1info.com) (in Serbian); https://ec.europa.eu/neighbourhood-enlargement/serbia-report-2020_en (see page 4).

[7] https://balkaninsight.com/2020/10/21/vucic-announced-new-elections-even-before-new-government-constitution/

[8] By way of example, in July 2021, the President made some 40 public interventions reported in the media.

considered as involved in the exercise of executive functions to a sufficient degree to be covered by this report.

The government

21. The government comprises a Prime Minister, one or more Deputy Prime Ministers, and ministers (Art. 125, Constitution), and may include ministers without portfolio (Art. 10, Law on Government). The Prime Minister is appointed by the National Assembly, upon proposal of the President (Art. 112, Constitution). The National Assembly elects the Government as a whole on proposal of the Prime Minister and simultaneously approves the Government's programme (Art. 127, Constitution). The term of office of the Government ends with the resignation of the Prime Minister. The National Assembly may dismiss the Government by a vote of no-confidence.

22. The Prime Minister leads the Government and chairs its sessions (Art. 12, Law of the Government). Decisions are taken by a majority vote, with the Prime Minister having the casting vote. Decisions of the government cannot be appealed (Art. 151, Law on General Administrative Procedure). Ministers are accountable to the Government and National Assembly for the work of their ministry. They can only be dismissed with the approval of the National Assembly, upon proposal by the Prime Minister, or following a vote of no confidence.

23. The current Government took office in October 2020. Apart from the Prime Minister, it consists of 5 Deputy Prime Ministers, 16 ministers and 2 ministers without portfolio. In addition to a female Prime Minister, there are 13 male ministers and 10 female ministers. This is in line with the Committee of Ministers' Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making.

24. Declarations of assets and income are submitted by ministers after taking and upon leaving office but are not systematically checked in depth (Art. 68, Law on the Prevention of Corruption or LPC, see paras. 39, 89 and 97). The GET considers that integrity checks should be carried out when persons are being considered by the Prime Minister for a ministerial post. Such integrity checks would play an important part in preventing corruption by providing an opportunity to identify conflicts of interest of persons contemplated for a particular ministerial portfolio. This preliminary check could be done for example by the Prime Minister's services based on asset and income declarations already available, as potential ministers will often already be public officials required to submit them, and/or interviews with the Prime Minister's services to identify possible risks of conflicts of interest. Therefore, **GRECO recommends laying down rules requiring that integrity checks take place prior to the appointment of ministers in order to identify and manage possible risks of conflicts of interest before joining government.**

Other persons exercising top executive functions

25. Ministers may be assisted by one or more state secretaries, whose area of competence they define. They are appointed and dismissed by the Government on proposal of each minister, with their position terminating with the end of a minister's office. They are accountable to the minister and the Government as a whole. They are recognised as public officials for the purpose of the LPC, whose requirements apply to them. They are working closely with ministers on defining government policies in specific areas, and the GET therefore considers that they are PTEFs for the purpose of this evaluation.

26. A ministry will also have assistant ministers, who are accountable to the minister. They are the highest-ranking civil servants and manage a defined field of work of the ministry. In contrast with state secretaries, they are civil servants selected by competition, but are appointed by the Government for a period of five years upon proposal of a minister. According to the Law on Civil Service, which applies to them, they are civil servants on appointed positions, and they are considered as public officials within the meaning of the LPC, whose requirements apply to them. They are closely involved in the decision-making process at ministerial level in determined sectors, typically more targeted than those of state secretaries, and are political appointees. According to the GET, they are also PTEFs.

27. The Secretary General of the Government manages the General Secretariat of the Government, which ensures the implementation of government acts and preparation of government sessions and assists the Prime Minister in other business. The Secretary General is appointed and dismissed by the Government on proposal of the Prime Minister without a competition. S/he is considered to be a public official within the meaning of the LPC. This role is political in nature and therefore postholders are considered PTEFs.

28. Within each ministry, there is also a Secretary of Ministry who is appointed after a competition open to civil servants and whose role does not pertain to government decision-making but is of an operational nature. While the LPC also applies to them, the GET is of the view that they should not be considered as PTEFs as they do not appear to be contributing regularly to the decision-making process.

29. Ministers can appoint up to three special advisers. Their number is determined by the Government for each ministry but cannot exceed three per ministry.[9] They make proposals and provide opinions to ministers requiring special expertise. Their rights and obligations are regulated by contract and their remuneration depends on their tasks with a cap on the maximum amount.[10] They are not considered public officials for the purposes of the LPC. As political advisers working directly with ministers, although they do not decide themselves, they are closely associated to the decision-making process and contribute to it on a regular basis. Therefore, the GET concludes that they are PTEFs.

30. The Prime Minister and Deputy Prime Ministers have cabinets, who perform expert and other tasks. They are led by chiefs of cabinet, who are appointed by the Prime Minister or his/her deputies from outside the civil service framework. The Prime Minister and Deputy Prime Ministers can appoint advisers in their cabinets (hereafter referred to as Government advisers), who are also hired from outside civil service. The number of government advisers is not limited. The employment of chiefs of cabinet and government advisers is tied to the duration of the term of office of the Prime Minister and/or deputy prime ministers. Their rights and obligations are regulated by their employment contracts. They are not considered public officials within the meaning of the LPC. The GET holds the view that the combination of the political nature of the appointment of both chiefs of cabinet and government advisers, and their role in providing expert advice to the ministers justify that they be considered as closely involved in decision-making and therefore PTEFs.

31. The GET notes that no integrity checks are carried out prior to the appointment by the President and Government of advisers (special advisers, government advisers and advisers to the President) to provide expertise for the purpose of decision-making. Such integrity checks

[9] With the exception of the Ministry of Education, Development and Technology which has four advisers and ministers without portfolio who have only one

[10] http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/odluka/2012/107/2/reg (in Serbian).

are crucial to avert any conflict of interest before appointment, especially as advisers will typically come from the private sector and return to it after the end of their employment in the president and government administrations. Similarly, chiefs of cabinet are not subjected to integrity checks prior to their appointment, even though they hold a pivotal role in leading the cabinets providing the President and ministers with expert analyses for decision-making. This appears particularly important for these two categories of PTEFs as they are not recruited upon a competition and, except for the President's chief of cabinet and advisers, are not covered by the requirements of the LPC, which requires a declaration of interests after taking up an official post.

32. The GET notes that there is no exhaustive list of advisers, be they special advisers, government advisers or advisers to the President. While each ministry is to produce a document that specifies who has been engaged as advisers, it is only communicated upon request under the Law on Free Access to Information of Public Importance, which does not make for easy access, especially as interlocutors met on site expressed difficulties in obtaining information from the Executive. For the purpose of greater transparency and owing to their role in the decision-making process, the President and the Government's respective websites should clearly indicate all employed advisers and their area of competence.

33. In view of the above, **GRECO recommends that (i) chiefs of cabinet and advisers (including of the President) undergo integrity checks as part of their recruitment in order to avoid and manage conflicts of interests; (ii) the names and area of competence of all advisers in Government and in the President's cabinet be made public and easily accessible.**

Remuneration of persons with top executive functions

34. The remuneration of ministers and state secretaries is calculated in accordance with the coefficient provided in the Law on Salaries in Government Bodies and Public Services. Since January 2022 new bases for remuneration have been set by amendments to the Law on Budget System. The remuneration of assistant ministers is fixed in accordance with the Law on Salaries of Civil Servants and General Employees, and they have additional allowances for past years of work

Position	Co-efficient	Net base	Net salary / month
President	15	RSD 10 117.99 (EUR 86)	RSD 151 770 (EUR 1 291)
Prime-Minister	12	RSD 11 871.51 (EUR 101)	RSD 142 458 (EUR 1 212)
Minister	10,2	RSD 11 871.51 (EUR 101)	RSD 121 089 (EUR 1 030)
State secretary	31,2	RSD 3 681.29 (EUR 31)	RSD 114 856 (EUR 977)
Assistant minister	7,11	RSD 23 313.02 (EUR 198)	RSD 165 756 (EUR 1 410)
Secretary general of the government	31,2	RSD 3 681.29 (EUR 31)	RSD 114 856 (EUR 977)
Special adviser[11]	6,32	RSD 23 313.02 (EUR 198)	RSD 147 338 (EUR 1 253)
Government adviser	7,11	RSD 23 313.02 (EUR 198)	RSD 165 756 (EUR 1 409)
Chief of cabinet	28,6	RSD 3 681.29 (EUR 31)	RSD 105 285 (EUR 895)

[11] The salary of special advisers cannot be higher than the amount obtained by multiplying the net base and the coefficient for calculating the salary of the advisor to the deputy prime minister.

Anticorruption and integrity policy, regulatory and institutional framework

Anti-corruption and integrity policies

35. There is presently no national strategy against corruption per se, but an Operational Plan for Corruption Prevention has recently been adopted. It is meant to be followed by a strategy and an action plan. The most recent strategic document was the National Anti-corruption Strategy 2013-2018. The document currently most referred to is the so-called Revised Action Plan for Chapter 23 on European Union (EU) integration and its subchapter entitled "Fight against Corruption".

36. The Law on the Prevention of Corruption (LPC, see para. 39) requires all public institutions to adopt an integrity plan, identifying areas and processes particularly susceptible to corruption risks and defining preventive measures. The Agency for the Prevention of Corruption (APC) supervises their development and provides recommendations for improvement. Integrity plans are to be revised every three years, with so far two cycles having been completed. Integrity plans have to be adopted by some 3 000 public authorities.

37. The APC checked the quality of the plans of 10 ministries for the first and second cycles and gave recommendations, notably on managing and sanctioning conflicts of interest, recording gifts, establishing a system for implementing the code of ethics, training on ethics and integrity, including ministers, secretaries of state and other officials. The APC also checked the implementation of the first integrity plan of the General Secretariat of the Government. Areas identified in its second integrity plan included the adoption of measures on internal whistleblowing, statements on outside activities, a public gift record and training on ethics. However, the development of integrity plans is based on a self-assessment of risks, and absolute autonomy on preventive measures. The APC cannot order that certain measures be included in the integrity plan nor that they be implemented. The whole process is confidential.

38. The GET welcomes the recent adoption of a global Operational Plan for Corruption Prevention, but there is no real focus on PTEFs. It acknowledges that the process of adopting integrity plans by the General Secretariat of Government and each ministry is a positive practice, although very few have been made public. However, they do not look into risks faced specifically by PTEFs across the Government in a holistic manner. This should be addressed by adopting a strategic document covering all PTEFs. Such a document ought to be also adopted for the President's administration. Accountability of PTEFs has become an increasingly sensitive topic for the public in GRECO member states, and it is important that steps planned to prevent corruption are known to the public. Therefore, strategic document on corruption prevention among PTEFs should be made public on official websites. The APC should also be empowered to review publicly these strategic documents and make recommendations on their implementation to ensure better transparency. Similarly, the response of the Government and Presidential administration should also be made public. Therefore, **GRECO recommends that (i) strategic documents for preventing corruption amongst all persons with top executive functions be adopted for the Government and the Presidential administration, on the basis of risk assessments, and made public; (ii) the role of the Agency for the Prevention of Corruption be strengthened by making public its recommendations and the response of the Government and Presidential administration.**

Legal framework and ethical principles/rules of conduct

39. The main anti-corruption law is the Law on the Prevention of Corruption (LPC) whose implementation started in 2020 and which was amended on 23 September 2021. The GET

notes that the adoption of the new amending law is positive in that it seeks to address certain weaknesses. The law aims to strengthen the role of the former Anti-Corruption Agency, renamed the Agency for the Prevention of Corruption (APC), by enhancing its independence, its financial and human resources, and competences. The law provides for requirements regarding conflicts of interest, incompatibilities, post-employment restrictions, gifts and declarations of assets and income. It applies exclusively to public officials as defined by the law. Among PTEFs, it includes the President, the President's chief of cabinet and advisers, the Prime Minister, ministers, assistant ministers, state secretaries, the Secretary General of the Government and the Secretary General of the President and his/her deputy. However, it leaves out the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet as well as special and government advisers.

40. There is no general code of conduct applicable to public officials or specifically PTEFs. Within the World Bank Initiative for Transparency and Accountability in Serbia, the preparation of a model code of conduct for public officials with corresponding guidelines is being contemplated. In 2016, the government adopted a short code of conduct specifically on "permissible limits of commenting on court decisions and proceedings" to ensure respect of the presumption of innocence and the authority of courts.

41. The GET notes that the LPC does not apply to two categories of PTEFs, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers, who are not considered "public officials" within the meaning of the law. This has far-reaching consequences as all integrity standards contained in the LPC do not apply to them (incompatibilities, ad hoc declaration of conflict of interest, asset and income declarations, gifts, and post-employment restrictions), and also prevents them from benefiting from confidential advice from the APC. Furthermore, they are recruited with contracts in which there is no automatic mention of integrity requirements. The GET considers this a serious loophole and that the LPC should expressly include them as public officials within the meaning of the law.

42. The GET notes the absence of any comprehensive code of conduct applicable to PTEFs. The only existing code is about government members refraining from commenting on court decisions and proceedings. It understands that there are plans to develop such a code. For civil servants, there is a code with brief, general references applicable to all civil servants. The GET considers it urgent that a code of conduct applying specifically to PTEFs be developed (in respect of ministers, state secretaries, assistant ministers, chiefs of cabinet, the General Secretaries of the Government and of the President as well as advisers) and that such an instrument would cover all pertinent issues (conflict of interest, incompatibilities, gifts, contacts with lobbyists and third parties, post-employment restrictions, asset declarations, confidential information, etc.). It should be accompanied by detailed guidance containing concrete examples connected to the work of the government and presidential administrations. The issues of public procurement and privatisations have been identified as high-risk areas and should therefore be given particular attention. Moreover, in order to ensure its effective implementation, sanctions incurred in case of breach should be specified. In addition, a similar document bringing together relevant integrity commitments should be adapted to the President, for instance in the shape of a statement of principles.

43. In view of the above, **GRECO recommends that (i) the remit of the Law on Prevention of Corruption be expanded to cover all persons with top executive functions (PTEFs), including the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet as well as special and government advisers; (ii) a code of conduct applicable to PTEFs be adopted,**

covering integrity matters (e.g. conflicts of interest, contacts with lobbyists and third parties, post-employment restrictions, etc.), accompanied by sanctions for violations and appropriate practical guidance; and (iii) an appropriate document on conduct be developed for the President.

Institutional framework

44. A key institution in promoting integrity and preventing corruption is the Agency for the Prevention of Corruption (APC). It is an independent public authority set up by the LPC and accountable to the National Assembly, to which it submits an annual report. It is led by a director, who is elected following a public competition for a five-year term (renewable once) and whose work is supervised by a council of five members. For 2021, the APC had a budget of RSD 290 664 000 (approx. EUR 2.47M) and 88 full-time staff.

45. The APC oversees the implementation of national strategic anti-corruption documents, monitors the rules on conflicts of interest, incompatibilities, gifts, declaration of assets and income, and the adoption and implementation of integrity plans by public institutions. It initiates proceedings in case of breach. It also develops an integrity training programme and monitors its implementation. It assesses corruption risks in draft laws in fields particularly susceptible to corruption. It is also responsible for overseeing the Law on Lobbying. The role of the APC has been strengthened by the LPC. The Government cannot suspend, postpone or limit the funds intended for its operation without the consent of the director. It can, *inter alia*, provide opinions on the implementation of the LPC of its own motion, file criminal charges, request the initiation of misdemeanour or disciplinary proceedings, to initiate proceedings based on anonymous complaints and *ex officio*, and assess draft laws for risks of corruption.

46. The Anti-Corruption Council (ACC) was established in 2001. Its role is to oversee all aspects of anti-corruption activities, to propose to the Government measures to be taken in order to fight corruption effectively, to monitor their implementation, and to make proposals for adopting regulations and other measures. The ACC prepares reports on potential systemic corruption with recommendations. They are submitted, *inter alia*, to the Government for further action. In accordance with the Action Plan for Chapter 23 for EU accession, the Government is required to consider the reports of the ACC at its sessions and invite it when its reports are discussed. In addition, the ACC is to be consulted on legislative procedure concerning regulations which bear a risk of corruption. However, the ACC has not been invited to working groups on law drafting in recent times. So far, the ACC has not received feedback from the Government on whether its various recommendations had been considered, adopted or rejected. The ACC has prepared 72 reports since its establishment. The preparation of the AAC's reports has been slowed down by difficult and slow access to the necessary information and documents in the authorities' possession.

47. The above-mentioned Action Plan stipulates that the budget and staff resources of the ACC should be strengthened. However, not only has this not be done but the ACC is currently working at a reduced capacity of only 6 members while 7 seats are vacant. The Government is to appoint new members based on a proposal by the ACC. Their profile is predominantly from academia, and they are apolitical. The ACC has repeatedly made proposals for the appointment of new members but to no avail. On the contrary, the Government has attempted to directly appoint three members in breach of the rules.

48. The GET notes that the ACC has a specific role in identifying systemic corruption problems, including in prospective legislation, and preparing reports containing

recommendations on how to address them. The system, as it was originally conceived, relied on a dialogue with the Government. However, the GET was told that the ACC's reports and recommendations are routinely ignored by the Government. The GET finds it regrettable that the Government does not engage with the ACC whose purpose is precisely to identify corruption risks and propose measures to address them. This is even more surprising as the current Action Plan for Chapter 23 for EU accession negotiations warrants such cooperation. It is also noted with concern that the Government has systematically ignored the ACC's proposals to fill vacant posts, with the result that it has been functioning at half capacity for several years.

49. In order to take full advantage of the ACC as a specialised advisory body, the GET is of view that a constructive dialogue should be reinstated between the Government and the ACC and that vacant seats be filled, according to the rules, on proposal by the ACC. To take full advantage of both the APC and the ACC, the GET considers it advisable that a memorandum of understanding between the two organisations be concluded to create synergies. Thus, **GRECO recommends that the advisory role of the Anti-Corruption Council in the institutional framework to combat corruption be fully acknowledged by ensuring that the Government engages with it, that all vacant posts of the Council be filled and that cooperation with the Agency for the Prevention of Corruption be formalised.**

Awareness

50. The Anti-Corruption Agency, now replaced by the APC, has prepared several publications available to public officials on the obligations stemming from the previous law. These publications contain practical examples deriving from proceedings conducted by the Agency against officials, including 10 cases involving public officials who were PTEFs. Following the entry into force of the LPC, this information has now been supplemented with a new "Guide for Officials", available on the APC's website and which has been revised since the adoption of the amendments to the LPC in 2021. The APC conducts regular trainings and information sessions, which can be followed by public officials at their own discretion. Owing to the Covid-19 pandemic, there were no training in person, but members of government were provided advice and instructions (in person, by phone and in writing). Since September 2021, the APC has conducted three online and one in-person training for public officials related to their obligations stemming from the LPC. Furthermore, the APC drafted the Manual for Recognizing and Managing Situations of Conflict of Interest and Incompatibility of Offices with the support of USAID Government Accountability Initiative (USAID GAI). In 2021, the APC presented the Manual at four workshops open, among others, to public officials in ministries. It has also been revised since the adoption of the amendments to the LPC.

51. If a public official has a dilemma relating to the LPC, it can submit a written request for clarification to the APC. Such requests may also relate to hypothetical situations. The APC is to provide an opinion on the existence of a conflict of interest within 15 days and propose measures for its elimination.

52. While noting that the APC has organised some training open to public officials within the meaning of the LPC, the GET notes that these training sessions have not specifically targeted PTEFs, taking account of their roles, nor have they been compulsory. Therefore, it considers that training should be planned for all PTEFs, including the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers, who are not covered by the LPC. Furthermore, training should cover all integrity matters, based on the future code of conduct for PTEFs (see para. 43), and should systematically take place upon

taking office and at regular intervals, in particular when new standards are adopted. Moreover, similarly to other PTEFs, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers should benefit from confidential advice on integrity matters, which they currently do not as they fall outside the remit of the LPC which frames the APC's area of competence. **GRECO recommends that (i) systematic briefing and training on all integrity standards be provided to all persons exercising top executive functions upon taking office and at regular intervals; (ii) confidential advice be available to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinets as well as special and government advisers.**

Transparency and oversight of executive activities of central government

Access to information

53. The Rules of Procedure of the Government stipulate how information is made public. Decisions made and documents adopted at a Government session are publicly available on its website. The Prime Minister holds press conferences and, after each Government session, a press release reporting the most important decisions is issued in coordination with the cabinet of the President. Serbia has signed (but not ratified) the Council of Europe Convention on Access to Official Documents (CETS 205), and the GET invites it to ratify it.

54. The Law on Free Access to Information of Public Importance (LFAIPI) outlines the right to obtain information of public interest. Access to information can be denied for reasons specified in the LFAIPI, for instance if the information threatens national security or national economic interests or contain state secrets. Denial can also take place if the right to free access of information is abused (e.g. unreasonable, frequent, multiple or too voluminous requests). Public authorities must respond within 15 days.

55. Complaints regarding decisions not to provide the requested information or the failure to respond within the specified deadline can in principle be lodged with the Commissioner for Information of Public Importance and Personal Data Protection, an independent public body. However, decisions of the President and Government are excluded from this system. The first instance public authority must prove that it has acted in accordance with the law. If the Commissioner finds a complaint justified it can order the public authority to grant free access to the requested information and, if necessary, can impose fines. Public authorities are liable for any damage caused by unjustifiably denying a media outlet information of public importance or discrimination against a journalist/media outlet in providing information, for which fines can be imposed (up to RSD 50 000, approx. EUR 425). The recent adoption of amendments to this law seek to ensure an efficient exercise of citizens' rights to access official information and give greater powers to the Commissioner.

56. The GET notes that several interlocutors met during the visit underlined the difficulty in obtaining information from the Government, with most requests not leading to any result or being provided tardily. This is coupled with the fact that there is no appeal possible with the Commissioner for Information of Public Importance and Personal Data Protection for decisions of the President and Government, the only option being to bring a case before administrative courts, which may well have a chilling effect given the financial burden and time required by judicial procedures.

57. Therefore, the GET considers that all requests for information, including those lodged with the Government or Presidential administration, not receiving a positive response (either

rejection or no reply), should be opened to challenge with the Commissioner. Consequently, the recent increase of the Commissioner's powers to obtain that requests for information be satisfied is to be welcomed, provided it applies to requests lodged with the Government and President administrations as the GET thinks it should. The GET was told by several interlocutors and the Commissioner himself that implementation proved difficult despite existing fines. Thus, recent amendments to the law are meant to improve enforcement, with the lower penalties being increased. Whether this will be effective should be kept under review, notably with statistics concerning requests to the Government and the Presidential administration. For these reasons, **GRECO recommends that (i) requests for information lodged with the Government or Presidential administration not receiving a positive response be subject to appeal before the Commissioner for Information of Public Importance and Personal Data Protection and (ii) enforcement of related decisions be kept under systematic review.**

Transparency of the law-making process

58. Pursuant to Article 77 of the Law on State Administration (as complemented by Art. 41 of the Rules of Procedure of the Government), draft legislation and amendments are to be disclosed in a timely manner via official websites and the e-government portal. The initiator of the draft legislation is to conduct a public debate when preparing a law that changes significantly the way in which a matter has been addressed legally or that governs a matter of particular interest to the public.[12] The deadline for submission of initiatives, proposals, suggestions and comments is at least 20 days. The draft act, its rationale and annexes, information on its authors and the procedure are to be disclosed.

59. According to the Rulebook on Good Practice Guidelines for Public Participation in the preparation of draft laws (2019), the competent authority must announce, at an early stage in the process, i.e. the very beginning of drafting the law, on its own website and the e-government portal, the commencement of a law, including the planned legislative solutions, the aims of the law, the regulatory impact assessment, calling upon interested parties to submit their comments and suggestions for further improvement within seven days. The announcement must include information on timeframes and manners of consultations to be organised. Subsequent reports on the results and outcomes of the consultation process are also placed on the e-government portal.

60. Regarding the criteria for a public debate to be held ("significant changes" and "matter of particular public interest"), Article 41 of the Rules indicate that public debates would have to be organised if the law contains substantial novelties intended to bring significant improvements in the field of social and economic affairs and if it changes or regulates otherwise the position, rights and obligations of entities to which the draft law relates, particularly concerning environmental protection and the use of technologies.

61. Furthermore, the Law on the Planning System envisages a transparent and consultative process with all stakeholders and target groups during the preparation and implementation phase of planning documents, which requires prior impact assessment of the public policy documents, aimed at protecting public interests. In January 2019, the Decree on the methodology of public policy management, analysis of the effects of public policies and

[12] In the Fourth Round Evaluation Report (para. 33) on the National Assembly, GRECO criticised, *inter alia*, that the criteria for obligatory public debates – "significant" changes, "matter of particular public interest" – lacked clarity and that even in case of obviously significant legal changes the rules on public debates were in practice frequently ignored (i.e. with no such debate being held at all or no information on its outcome being published).

regulations and the content of individual public policy documents was adopted, which further elaborates on the provisions on the obligation to conduct consultations in the preparation of regulations and public policy documents (e.g. through public hearings). A Manual on public consultation was published in July 2021 and made available on an official website. In December 2021 the "e-Consultation" Portal was launched to further strengthen the consultation process, notably cooperation with citizens, NGOs, the business community and stakeholder. This Portal aims at making the work of the Government more transparent.

62. Despite existing rules, the GET was told by many interlocutors that in practice government bills still too often proceed to the National Assembly without public consultation, despite legal changes providing for them and the slight decline in urgent procedures of late. When a public consultation does take place, all publicity requirements to enable proper consultation that are required by law do not appear to be followed systematically or not in a timely fashion. This has been documented in reports published by civil society in recent years.[13] It has also been pointed out that often the draft laws sent to the National Assembly have been modified significantly compared to what was submitted for public debate without the legislative footprint being specified, although this appears to be a legal requirement. This is to be read in conjunction with the recommendation on transparency of lobbying of the Executive (see para. 68). There also appears to be a certain lack of clarity in practice as to the exact timeline for public consultation. The GET could not obtain a clear-cut answer during the visit from different interlocutors and the Rulebook on Good Practice Guidelines for Public Participation leaves it to the authorities concerned to fix it. Moreover, even with the aforementioned Rulebook, the GET learned during the visit that in practice the existing criteria for making public debate compulsory ("significant changes" and "matter of particular public interest") give an overly broad margin of interpretation that provides ways of circumventing the obligation to hold public debates. All in all, while there has been progress in the laws and regulations, as noted in the Fourth Evaluation Round 2nd Compliance Report regarding members of parliament, the GET has found that the practice remains unsatisfactory with regard to government bills. The GET considers as a positive development the recent setting-up of an e-portal to facilitate citizen participation in government legislative proposals, although this is a tool rather than a change in the approach.

63. Transparency of the law-making process is an important component of anticorruption policy. In order to increase the transparency of the legislative process, the GET considers that organising public debates for all drafts emanating from the Government should be the rule; such debates should follow a clear fixed timeline and provide information on amendments made to the draft and their origin. Therefore, **GRECO recommends that (i) laws emanating from the Government be systematically submitted for public consultations, and (ii) revised bills presented before the National Assembly be systematically accompanied by an explanatory note giving the legislative footprint of the draft law.**

Third parties and lobbyists

64. The Law on Lobbying, which entered into force in 2019, requires natural and legal persons engaged in lobbying to register respectively in the Register of Lobbyists and the Register of Legal Entities Conducting Lobbying, both managed by the APC. Forty lobbyists and three legal entities are registered to date. The law stipulates that lobbying starts with a written notice addressed by the lobbyist to the lobbied person. The lobbied person is to notify the

[13] See, in particular, https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Grand_Corruption_and_Tailor-made_Laws_in_Serbia.pdf

APC of such contacts within 15 days. Moreover, the state authority of the lobbied person must maintain a record of contacts with the lobbyist. The scope of this law is broader than the LPC and covers all PTEFs. Registered lobbyists are also required to submit an annual activity report to the APC, with information on lobbying clients, lobbied persons and the subject matters of the lobbying; this information is not public. Five notifications on the contact of lobbying of the lobbied person have been submitted in total.

65. Fines can be imposed on lobbyists or lobbying clients (RSD 30 000 to 150 000, approx. EUR 255 to 1 275, on natural persons, and RSD 50 000 to 2 million, approx. EUR 425 to 17 000, on legal persons), *inter alia*, for failing to respond to requests for information or for starting lobbying without a contract. The APC has to go to a misdemeanour court to have these fines imposed. The lobbied person or the responsible person in a public authority may also be held accountable under the LPC.

66. The Law on Lobbying is complemented by a Code of Conduct of Lobbying Participants prepared by the APC. It contains ethical rules of conduct of all lobbying participants. To date, the APC has held 11 training sessions for lobbyists with 102 participants and produced a video available on the internet.

67. While it is positive that lobbying is now regulated in law,[14] the GET notes that only contacts made formally in writing to PTEFs, with a notification containing specific information on the lobbyist, count as lobbying under the Law on Lobbying. Any other form of contacts is excluded from the law. For example, contacts in person are not considered as lobbying if they do not follow a formal notification, and PTEFs do not have to report them. This was confirmed by all interlocutors met during the on-site visit and falls short of the well-established standards of GRECO regarding PTEFs. Moreover, the records kept by the state authorities on lobbying contacts are not public. The annual reports of lobbyists to the APC with details of contacts and themes discussed are not public either.

68. The GET is concerned about the influence exercised on PTEFs in less formal settings that fall outside the narrow scope of the Law on Lobbying which is limited to those following a formalised written contact. The fact that only five contacts qualifying as lobbying have been declared by PTEFs since the entry into force of the law more than two years ago demonstrates that the definition of lobbying needs to be considerably broadened to cover all contacts between PTEFs and lobbyists as well as third parties seeking to influence them. Furthermore, PTEFs, including the President, should report publicly their meetings with lobbyists on a regular basis and the topics discussed in sufficient detail to increase transparency concerning the various sources that can influence political decision-making. **GRECO recommends that (i) the notion of lobbying encompassed in the Law on Lobbying be expanded to cover contacts with persons with top executive functions (PTEFs) whether they have been formalised in a written request or not; (ii) contacts between PTEFs and lobbyists/third parties that seek to influence the public decision-making process be disclosed as well as the names of the participants and subject-matters discussed.**

Control mechanisms

69. Ministries have established internal audit units, which, *inter alia*, evaluate the system of internal control or established procedures and evaluate processes to assess cost effectiveness. While they are accountable to ministers, they are functionally independent.

[14] This was noted in the Second Compliance Report as the same law applies to members of parliament.

However, one ministry has currently not set up an internal audit unit and two other ministries do not have any staff in their units. The GET considers it urgent to ensure that each ministry is equipped with a functioning internal audit unit as a vital part of ensuring control on a routine basis at ministerial level and hence promoting integrity in ministerial use of public funds. Therefore, **GRECO recommends that all ministries be equipped with fully functioning internal audit units**.

70. External control is to be carried out, first and foremost, by the National Assembly.[15] It can ask questions and receive information from the Government, vote a motion of no confidence in the government or a member of the government[16], establish inquiry committee. Every minister must inform the competent committee of the National Assembly on the work of his/her ministry four times a year. The Government as a whole is also required to submit a report on its work to the National Assembly, at least once a year. However, the opposition in the National Assembly is composed of seven members out of 250, and a number of interlocutors met by the GET as well as reports from civil society[17] underlined that, as a result, the National Assembly overwhelmingly supports the Executive without playing its role of external control.

71. The government is also subject to financial and economic control by the State Audit Institution (SAI), an independent public body, accountable to the National Assembly. It may, *inter alia*, control the appropriate use of public funds; the system of internal audits, accounting and financial procedures. The Annual Activity Report for 2020 indicated that the most common irregularities were in the area of public procurement. The GET notes that this has also been identified as a risk area in the Operational Plan for Corruption Prevention and heard from many interlocutors met on site as well as civil society reports that public procurement was an area where there were many allegations of conflicts of interest involving PTEFs. It also notes that one of the few cases brought against former PTEFs for abuse of office concerns the alleged meddling in a procurement procedure. The GET considers that this issue should be reflected in preventive measures, including in the future code of ethics and accompanying guidance and training.

Conflicts of interest

72. Under the LPC, public officials should not subordinate public interest to their private interests and are prohibited from using their office to acquire any benefit advantage for themselves or an associated person (Art. 40).[18] The LPC defines a conflict of interest as "a situation in which a public official has a private interest which affects, may affect, or appears to affect the discharge of his/her public office" (Art. 41). Public officials, upon taking office and during office, must notify in writing, without delay and no later than within a period of five days, their immediate superior and the APC of a possible conflict of interest (including if linked to an "associated person") (Art. 42). They must refrain from acting in cases where there may be a conflict of interest unless there is a danger of delay.

73. The APC must provide an opinion on the existence of a conflict of interest within 15 days (or 8 days if it concerns a public procurement procedure). If a conflict of interest has

[15] See for further information on the National Assembly, GRECO's Fourth Round Evaluation Report in respect of Serbia, paragraph 21 and further.
[16] Since 1995, 13 motions of no confidence in the government have been submitted since 1995, none of which have been successful.
[17] See for instance: https://freedomhouse.org/country/serbia/nations-transit/2021
[18] Blood relative in the direct line and/or collateral line up to the second degree of kinship, as well as a legal or natural person whose interests may be reasonably be assumed to be associated with the public official.

been found, the APC should notify the public official concerned and the agency in which s/he holds office and propose measures to manage it. If the conflict persists, it conducts violation proceedings and may publicly recommend dismissal and reprimand.[19] Failure to notify the APC of a possible conflict of interest is subject to a fine of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275). The APC may also initiate a procedure *ex officio* or upon an individual report in order to establish whether a conflict of interest existed within two years of learning of it but no later than five years since it has taken place.

74. The GET finds it positive that there is a system in place to report ad hoc conflicts of interest to the APC, which then assesses them and how they should be managed. At the same time, it is concerned that the obligation to report an ad hoc conflict of interest would be set aside if, according to the LPC, there is a "danger of delay" in decision making. This notion is rather vague and provides an overly broad exception. The GET underlines the importance for PTEFs to withdraw from the decision-making process whenever there is a perceived conflict of interest in respect of the topic at issue and that such decisions be accessible to the public. Moreover, once again, the LPC does not cover the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers, who should also be subject to declaring ad hoc conflicts of interest. Finally, for the sake of increased transparency, any confirmed conflict of interest should be disclosed. Thus, **GRECO recommends that (i) all persons with top executive functions be required to disclose ad hoc conflicts of interest; and (ii) the exception whereby they are dispensed of doing so in case of "danger of delay" in the decision-making process be removed from the law.**

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

75. Government members cannot at the same time be members of the National Assembly, an executive body of an autonomous province or a local government (Art. 126, Constitution). The President cannot perform any other public functions or professional duties (Art. 115, Constitution). Public officials under the LPC cannot hold more than one public office without consent of the APC, unless statutorily charged with occupying another public office or if they were directly elected to such an office (Art. 56 LPC).[20]

76. According to the LPC, public officials whose public office requires full-time or permanent work may not perform other work or business activity. If their public office requires the establishment of an employment relationship in a public authority, they may not, when in public office, set up a company and/or public service or start performing an independent business activity. Nor can they act as a representative or member of the body of a privately owned legal person or exercise management rights. They cannot be a representative or member of the body of an association if a relationship exists between the public authority and the association that could jeopardise their impartiality or the reputation of the public authority, or if another law or regulation prohibits them from being a member of the body of a specific association.

77. Public officials can engage in scientific research, teaching, cultural, artistic, humanitarian and sports activities provided these activities do not jeopardise the impartial

[19] In addition to this, a public official who was elected directly by citizens as well as a person whose public office has been terminated, may be issued a reprimand or a measure of public announcement of the decision on the violation of the law.

[20] Approved requests for performing another activity by ministers and secretaries under the previous law amounted respectively to 1 request in 2018 and 4 in 2019; and 9 requests in 2018 and 4 requests in 2019.

discharge and reputation of their office. Functions in political parties are allowed, provided that it does not jeopardise the discharge of their office and is not otherwise prohibited by law, and that they refrain from using public resources for political activities, other than for their personal security. They must also inform their interlocutors and the general public whether they are expressing the opinion of their office or that of a political party.

78. The LPC also provides that, for any other work or business activity than those expressly prohibited or permitted, the APC's consent has to be sought by the public official concerned.[21] If a public official already has other work or engages in a business activity upon assuming office, s/he has to inform the APC within 15 days of taking up office. The APC determines within 30 days whether the work and/or business activity jeopardises the impartial discharge of public office, upon which it may issue a time-limit (not exceeding 60 days) within which the public official must give up this work or activity. Any breach is subject to a fine of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275).

79. As regards financial interests, any shares in a company higher than 3% which entitle public officials to management rights in that company, require them to transfer them within 30 days of taking office or acquiring the shares to another person, who is to exercise these rights on their behalf until they leave office (Art. 51 LPC). Public officials must notify the APC of the transfer of management rights within 15 days. Failing to transfer management rights or notify the APC thereof within the prescribed time limit is subject to a fine of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275).

80. The GET notes again that none of these restrictions that are encompassed in the LPC apply to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers. In this respect, it refers to its earlier recommendation that stresses that the remit of this law should encompass all PTEFs (see para. 43).

Contracts with state authorities

81. The LPC contains specific rules applying to contracts with state authorities. If public officials or their family member have a stake or share in a legal person and this legal person participates in a public procurement procedure, privatisation procedure or any other procedure resulting in a contract with a public authority (or a legal person in which the Republic of Serbia, the autonomous province, a local self-government unit or a city municipality has a stake or share) in the period when the public official is in office and up to two years after, the legal person has to notify the APC. Failing to do so can result in a fine of RSD 1 to 2 million (approx. EUR 8 500 to 17 000) for the legal person or a fine of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275) for the responsible person in this legal person. Once more this ought to apply to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers who should be covered by the LPC (see para. 43).

[21] At the request of a public official, the APC may provide consent regarding their engagement in another work and/or business activity. Along with the request, the public official must submit a positive opinion of the authority that has elected, appointed or nominated him/her. Along with the request, an appointed civil servant is obliged to submit the consent of his/her immediate superior. The APC must decide on any request within 15 days. If the work or business activity endangers the impartial discharge of the public office or its reputation, i.e. that it represents a conflict of interest, a time limit is set within which the public official has to stop performing the work or business activity in question (Art. 46 paras 3 and 4, LPC as amended).

Gifts

82. Public officials under the LPC are not allowed to accept any gifts in connection with their public office, except for protocol gifts and occasional gifts (Art. 58). Gifts are to be any "item, right or service, given or provided without appropriate compensation and/or a benefit or advantage afforded to a public official or his/her family member". Protocol gifts are those that public officials or their family members have received from a representative of a foreign state, international organisation or foreign persons during an official visit or on similar occasions. An occasional gift is a gift that is received when it is traditional to exchange gifts. Such gifts should be handed over and become public property. Exceptionally, if the value of the gift does not exceed 10% of the monthly net average salary (i.e. 10% of RSD 60 073, approx. EUR 510), they can be kept by the public official.

83. Public officials must notify their public authority on any gifts received in connection to their office within ten days of receiving it and/or on the day of returning to the country.[22] The public authority is to keep a record of gifts. A copy of this record must be submitted annually to the APC, which publishes them annually on its website. Receiving a gift contrary to the provisions of the LPC, failing to hand it over or to notify it, can result in a fine of RDS 100 000 to 150 000 (approx. EUR 850 to 1 275) (Art 103 LPC).

84. The rules on gifts in the LPC are complemented by the Rulebook on Gifts of Officials, which deals with the following: how to act when receiving gifts; the form of notification on the gift received; the form of gift record; the method of submission and receipt of gift record; the method of managing and keeping catalogue of gifts. However, these rules leave out the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers who ought to be covered by the LPC as other PTEFs (see para. 43).

Misuse of public resources

85. Public officials must not use their office to obtain any benefit or advantage for themselves or an associated person (Art. 40 LPC). They may not use public resources for the promotion of political parties (e.g. organising political gatherings, creating and distributing advertising material) (Art. 50 LPC). They can be fined from RSD 100 000 to 150 000 (approx. EUR 850 to 1 275). These provisions currently to not apply to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers (see para. 43). Misuse of public resources can also constitute a criminal offence of embezzlement and abuse of official position (Art. 364 and 359 Criminal Code – hereafter CC).

Misuse of confidential information

86. Public officials are prohibited from using information obtained while discharging their office for the purpose of acquiring a benefit or advantage for themselves or another, or for harming others, if such information is not available to the public (Art. 40 LPC). Once more, the LPC does not apply to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers (see para. 43). Furthermore, this can also amount to a criminal offence of abuse of office (Art. 359 CC) and, if information is classified as official secret, of revealing official secrets (Art. 369 CC).

[22] Under the previous law, the Prime Minister notified 50 gifts in 2018 and 35 in 2019; ministers notified 163 gifts in 2018 and 187 in 2019; and state secretaries notified 3 gifts in 2018 and 3 in 2019.

Post-employment restrictions

87. Without the consent of the APC, a person whose public office has ceased may not establish an employment relationship and/or business cooperation with a legal person, entrepreneur or international organisation that has a business relationship with the public authority in which the public official has been discharging a public office, for two years after the termination of public office (Art. 55 LPC). The APC will particularly consider the powers the applicant had at the time when s/he was discharging the public office. If a public official takes up such employment or cooperation without the consent of the APC, s/he can be fined for a misdemeanour in an amount of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275). In addition, the prohibition to conduct lobbying by all PTEFs only ceases two years after leaving office or employment (Art. 12 Law on Lobbying).

88. The GET notes that the prohibition for public officials on being employed by a corporate in a sector related to their office for two years after leaving office does not apply to public officials elected directly by citizens, such as the President, nor does it apply to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers who are not included in the LPC. This should be remedied so that the same rules apply across the board to all PTEFs. For these reasons, **GRECO recommends that post-employment restrictions rules apply to all persons with top executive functions, including the President, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet as well as special and government advisers.**

Declaration of assets, income, liabilities and interests

Declaration requirements

89. Public officials are required to submit an asset and income declaration for themselves, their spouse or common-law partner and any minors living in the same household (Art. 68, LPC). It is to be submitted to the APC within 30 days of election, appointment or nomination, and within 30 days after leaving office (and once a year for two years thereafter) and, if there have been significant changes in the data previously submitted in the assets and income declaration, by 15 May for the previous calendar year.

90. The declaration is to include information on the following assets and income, whether held in Serbia or abroad (Art. 71 LPC): any other work, business activity and membership in bodies of associations, and the source and amount of income received; amount and source of income received from holding a public office and other public sources; income received from scientific research, teaching, cultural, artistic, humanitarian and sports activities, copyrights, patents and other intellectual property rights; source and amount of other income; use an apartment for official purposes; ownership or the right of lease on real estate and moveable property subject to registration; bank deposits and other financial institutions; lease of bank safes; receivables and payables (principal, interest, period of repayment and maturity); shares and stakes in legal persons; legal persons in which the legal persons of which the public official has shares, when the former has shares of more than 3% of the total shares of the latter; financial instruments (e.g. bonds, insurance policies, etc.); cash, digital property and valuables, as well as other movable property whose value exceeds EUR 5 000.

91. The APC keeps a register of declarations of public officials. Some of the information in this register is public, *inter alia*: the name of the officials, their public office; their remuneration from public sources; their use of an apartment for official purposes; their ownership or lease of real estate and moveable property subject to registration; shares and

stakes in legal persons; and business activities as an entrepreneur (Art. 73-7 para. 1 LPC). The APC has issued a Rulebook on the Register of Officials and the Register of Assets and Income of Officials, which prescribes in detail the content, form and procedure for filling in the asset and income declaration.

Review mechanisms

92. The APC has been tasked with verifying the accuracy and completeness of the data provided in the asset and income declarations, as well as its timeliness. The unit responsible for this verification currently comprises six full-time staff. The reviews of the asset and income declarations of public officials are carried out in accordance with the APC's annual verification plan, which does not necessarily include PTEFs. The APC can also carry out extraordinary verifications *ex officio*, for example when triggered by information from other public authorities, media reports, information submitted by legal entities or natural persons.

93. In order to carry out its reviews, the APC has access to data from the Business Registers Agency, Republic Geodetic Authority (land registry), Central Securities, Depository and Clearing House, the Ministry of the Interior and the Tax Administration. Public authorities and other legal persons (with the exception of banks and other financial institutions) must provide direct access to any databases or other documents. It can also obtain information on the accounts held by public officials from banks and other financial institutions, and – with their consent – from other persons. When the APC needs to check the assets and income located abroad, the Administration for Prevention of Money Laundering will obtain the necessary data.

94. If the APC comes across a discrepancy between the data in the financial declaration and the actual situation or between the increased value of the assets and the reported income, it can invite public officials or family members to provide an explanation. If it suspects that the actual value of assets or income is being concealed, it may request that associated persons submit data on their assets and income directly, within 30 days. Once the discrepancy is established, the APC notifies the competent authority, depending on the offence, to enable it to take measures within its remit. This competent authority must inform the APC of the measures taken with three months of having received its notification.

95. If the APC has a reasonable suspicion that public officials intentionally did not declare assets or provided false information about their assets and income, it can submit a criminal charge or a report to the competent prosecutor's office. For such offences, sanctions can be imposed of six months to five years' imprisonment (Art. 101 LPC). The APC can also initiate misdemeanour proceedings (for failing to submit an asset and income declaration, failing to provide complete information or to do so within the prescribed deadline, for which a fine can be imposed in an amount of up to RSD 150 000, approx. EUR 1 275, can be imposed), or impose administrative sanctions (such as a reprimand, publicly announcing a violation of the law or a recommendation for dismissal from public office). No statistics specially on PTEFs was available as they are not automatically disaggregated by type of office.

96. While the LPC gives the APC certain powers to obtain information from different bodies to assess the accuracy of asset and income declarations submitted by public officials and to sanction breaches, the GET notes that there is no systematic examination of the declarations submitted by PTEFs beyond a formal check, unless it is included in the APC's annual verification plan or subject to an exceptional verification procedure. This may in part be explained by the

high number of public officials within the meaning of the LPC who are required to submit declarations and the rather limited human resources devoted to verification.

97. The GET is of the firm belief that the declarations of PTEFs should systematically be assessed in depth given their role in decision making at the very top of the Executive. This is paramount for the control system operated by the APC to be meaningful in respect of PTEFs in order to identify possible conflicts of interest and impose dissuasive sanctions where necessary. The APC should consequently be provided with adequate resources for that purpose. It should also be noted once again that the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet and (special and government) advisers are not covered by the provisions of the LPC, which should be remedied urgently (see para. 43). **GRECO recommends that asset and income declarations of persons with top executive functions be subject to regular substantive control and that the Agency for the Prevention of Corruption be provided with adequate resources for that purpose.**

Accountability and enforcement mechanisms

Non-criminal accountability mechanisms

98. The APC may initiate proceedings to decide on a violation of the LPC *ex officio*, on the basis of a report by a natural or legal person (including anonymous reports) or at the request of the public authority which has elected, appointed or nominated the public official in question or in which s/he has his/her public function. Decisions establishing a violation of the LPC are made by the Director of the APC and can be appealed before the Council of the Agency within 15 days. The decision of the latter can be challenged before an administrative court.

99. The Director of the APC may impose administrative measures: a reprimand for minor violations not affecting "the objective discharge of public office"); for serious violations affecting "the objective discharge of public office, trust of citizens in a public official and/or the reputation of the public office", publicly announce that a recommendation has been made that the public official be dismissed or that a serious violation of the LPC has taken place. When dismissal is recommended, the competent public authority should notify the APC of the measures taken with 60 days. There are no disciplinary proceedings against ministers nor state secretaries. Ministers are accountable to the National Assembly. In this respect, the GET refers to its recommendation on the code of conduct to be adopted which should be enforceable for all PTEFs (including chiefs of cabinet and (special and government) advisers, currently not covered by the LPC) with appropriate sanctions in case of breach (see para. 43).

100. When establishing a violation of the law, there is a suspicion that a breach of duty, a misdemeanour or criminal offence has been committed, the APC must submit a request for initiating disciplinary proceedings to the authority concerned, submit a request for initiating misdemeanour proceedings to a misdemeanour court or file a criminal report with a public prosecutor. The competent authority is to inform the APC about the measures taken within 90 days. Decisions of the APC on administrative measures do not affect possible criminal or misdemeanour proceedings.

101. Misdemeanour proceedings can be initiated for failure to notify the APC within the prescribed period of time of a possible conflict of interest or other work or business activity, acceptance of another public office or performance of other work or business activity contrary to the law, violation of the rules on transferring management rights, violations of the rules on the acceptance and handling of gifts or failure to report assets and income in the manner and within the deadlines provided by the law. These proceedings may result in a fine in an amount

of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275 EUR). For violation of the requirements on asset and income declarations and post-employment restrictions, fines can be imposed on a person who is no longer in public office. Fines of RSD 100 000 to 150 000 (approx. EUR 850 to 1 275) can also be imposed if the public official has a function in a political party and participates in their activities contrary to the law. It was not possible to obtain statistics on PTEFs as data covers all public officials within the meaning of the LPC, which ranges from members of the National Assembly to mayors and heads of public bodies. The GET considers it important that statistics are systematically disaggregated according to the functions performed by those having breaches rules in order to inform prevention measures.

102. Regarding misdemeanours, in 2015, proceedings before the misdemeanour court led to a fine being imposed of RSD 50 000 (approx. EUR 425) upon a state secretary for untimely submission of his/her declaration of assets and interests, with proceedings against another state secretary discontinued due to the statute of limitations. A fine of RSD 25 000 (approx. EUR 212) was imposed on an assistant minister. In 2016, an assistant minister received a fine of RSD 50 000 (approx. EUR 425) and two other proceedings against a state secretary and an assistant minister were discontinued due to the state of limitations. In 2017, a state secretary was officially cautioned due to untimely submission of his/her declaration (reprimand issued in court proceedings). An assistant minister was fined RSD 50 000 (approx. EUR 425), in another case concerning an assistant minister, proceedings were suspended and in two other cases proceedings were discontinued due to the statute of limitations. In 2018, a state secretary was officially cautioned, and two others had fines of RSD 50 000 (approx. EUR 425) due to untimely submission of their declaration of assets and income. Two assistant ministers received respectively fines of RSD 20 000 and 30 000 (approx. EUR 170 and 255). In 2019 the APC filed a request for initiation of misdemeanour proceedings against one minister, being discontinued by the competent misdemeanour court due to the statute of limitations. There were no sanctions imposed for other violations of the LPC for PTEFs having the status of public officials for the purpose of this law (the President, the President's chief of cabinet and advisers, the Prime Minister, ministers, assistant ministers, state secretaries, the Secretary General of the Government and the Secretary General of the President and his/her deputy).

Criminal proceedings and immunities

103. Apart from the provisions on bribery, trading in influence and abuse of official position in the Criminal Code, the LPC provides that a failure to declare assets and income to the APC or provide false information in order to conceal a situation, is a criminal offence subject to six months to five years' imprisonment (Art. 101, LPC). Following a conviction, the office or employment of public officials is to be terminated and they are to be prohibited from holding another public office for a period of 10 years (Art. 102, LPC). Those would not apply to chiefs of cabinet and (special and government) advisers, which should be remedied (see para. 38).

104. Pursuant to Article 134 and 199 of the Constitution, the President, the Prime Minister and ministers enjoy immunity from prosecution. Government members enjoy immunity as defined for MPs in Article 103 of the Constitution. They may not be detained, nor may criminal or other proceedings in which a prison sentence may be imposed be conducted against them without the approval of the National Assembly. If they are caught committing a criminal offence incurring more than five years' imprisonment, they may be detained without the approval of the National Assembly. Requests to lift their immunity are to be submitted to the Committee on Administrative, Budgetary, Mandate and Immunity Issues, which is to consider the issue at a special session and submit its report and proposal to the National Assembly, which will then decide by majority vote. If the National Assembly decides not to lift their

immunity, the statute of limitation will be suspended for the duration of the immunity. If the President, Prime Minister or minister fail to invoke immunity, the National Assembly can still itself invoke it for them. No requests for lifting the immunity of the President, Prime Minister or ministers appear to have ever been made.

105. The Prosecutor's Office for Organised Crime is competent to prosecute criminal offences against an official duty (i.e. abuse of official position, trading in influence, passive and active bribery, pursuant to respectively Art. 359, 366, 367 and 368 CC) when committed by the Prime Minister, members of the government and other high-ranking officials such as state secretaries and assistant ministers. The President is therefore not covered by these provisions.

106. Regarding criminal proceedings, in the period 2015-2021, the Prosecutor's Office for Organised Crime filed indictments against one former minister and four assistant ministers, three of which are ongoing. A first case concerned an investigation into an alleged abuse of office by an assistant minister in 2015, who was suspected of using his official powers by approving the requests of two companies to benefit from incentives funds, in excess of RDS 1 500 000, although they allegedly did not meet the requirements. However, the investigations cleared him of any wrongdoing and an investigation was dismissed. In 2017, a former minister and an assistant minister were charged with abuse of office on suspicion of having intervened in favour of the exchange of state-owned agricultural land for agricultural land owned by a company, although the market value of former was higher than that the latter. In 2020, a state secretary was charged with abuse of office for having issued a letter in the public procurement procedure ordering the initiation of a procedure concerning the urgent rehabilitation of a bridge, which enabled the director of the public company to initiate the public procurement procedure, a negotiated procedure without publishing a call for bids, and adjusting the requirements for a specific company to be selected. In addition, also in 2020, an assistant minister was charged with accepting bribes and with abuse of office. She allegedly perverted a public procurement procedure, in exchange of promised benefits of RDS 108 000 and 120 000, half of the amount the other defendant would have benefited, i.e. RDS 5 760 000. The assistant minister was also charged with using a payment card issued for official purposes 36 times for personal use for a total amount of RDS 624 44. In 2021, an investigation was ordered against an assistant minister for trading in influence, accepting bribes and money laundering in a public procurement. At the end of 2021, the former State Secretary of the Ministry of Internal Affairs was charged with trading in influence. All the above-mentioned criminal proceedings initiated since 2017 are still ongoing.

107. At the same time the authorities indicate that they are not aware of any PTEFs having been removed from office (or having resigned, after public condemnation) on grounds of corruption or related misconduct in the last five years. No requests for the lifting of the immunity of these ministers were made. All the above-mentioned proceedings concern PTEFs having already left office.

108. The GET notes that immunity which the President and Government ministers enjoy appears to cover offences incurring less than five years' imprisonment and committed in connection or not with the performance of official duties. It is worth noting that the Council of Europe European Commission for Democracy through Law (Venice Commission) calls for extra caution and restraint in the interpretation and application of special procedures to hold members of Government criminally liable. In particular, and in conformity with the principle of equality, special procedures should preferably be reserved for criminal acts committed in

the exercise of official functions. Ordinary criminal acts, committed as a private citizen, should preferably be a matter for the ordinary criminal system.[23]

109. In conjunction with this, the GET notes that few PTEFs have been prosecuted for corruption offences, especially compared with allegations of conflicts of interest reported widely in the media,[24] and that all have been prosecuted after leaving office, i.e. there have been no decisions to lift the immunity of PTEFs from 2015 to the adoption of this report. Therefore, the GET is of the view that the current system of immunity needs to be revised so as to exclude explicitly corruption related offences and the competence of the Prosecutor's Office for Organised Crime needs to cover not only government members but all PTEFs, including the President, in order to ensure a high degree of specialisation for corruption offences committed at the highest level of the State. Moreover, the staffing of the Prosecutor's Office for Organised Crime needs to be reinforced urgently as there were six posts of prosecutors vacant at time of the visit, which has an obvious impact on the office fulfilling its function. Several interlocutors mentioned cases of alleged corruption of PTEFs that were not pursued by the Prosecutor General's Office that raised suspicions of politicisation.

110. **GRECO recommends that (i) the immunity provided to members of the government be revised in order to exclude explicitly corruption-related offences; (ii) the competence of the Prosecutor's Office for Organised Crime be extended to cover all persons with top executive functions, including the President, for criminal offences against an official duty and be staffed adequately to fulfil its role.**

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability of law enforcement/police authorities

Overview of various law enforcement authorities

111. Serbia's main law enforcement body is the police, which is responsible for all local and national law enforcement, including migration and border control. The police is a civil organisation and the General Directorate of Police forms part of the Ministry of the Interior. Its activities are regulated by the Law on the Police (LP), as amended in 2018, and the Criminal Procedure Code (CPC), complemented by other laws, by-laws, instructions and rulebooks.

112. The police is organised in three hierarchical levels: the General Directorate of Police at central level (with different organisational units, e.g. the criminal investigations directorate, uniform police directorate, special anti-terrorist unit and border police), based in Belgrade, the City of Belgrade Police Directorate and 26 regional police directorates and police stations.

113. The Ministry of the Interior currently employs 41 233 persons (30 526 men and 10 707 women). There are 32 663 employees in the General Police Directorate and 8 570 employees in other organisational units of the Ministry. Employees at the Ministry include police officers, civil servants and common service employees. Police officers are: (i) persons performing police duties as authorised officials exercising police powers, representing 31 124 employees (25 500 men and 5 624 women); (ii) persons with special duties performing other internal affairs directly pertaining to the police duties and the tasks of protection and rescue,

[23] Report on the Relationship Between Political and Criminal Ministerial Responsibility, European Commission for Democracy through Law (Venice Commission), CDL-AD(2013)001.
[24] https://balkaninsight.com/2021/10/06/serbian-leaders-defend-finance-minister-caught-in-pandora-papers/; https://freedomhouse.org/country/serbia/freedom-world/2021

representing 8 804 employees (4 748 men and 4 056 women). Civil servants perform other tasks falling within the scope of the Ministry and related general, legal, information, material and financial, accounting and administrative tasks. Common service employees are the persons who, acting in such capacity, perform the related supporting and technical tasks. Currently, there are 261 civil servants (55 men and 206 women) and 1 044 common service employees (223 men and 821 women).

114. The General Directorate of Police headquarters, the City of Belgrade Police Directorate and the 26 regional police directorates are operatively and functionally connected. The heads of the regional police directorates manage the work of local police subdivisions and are accountable to the Chief of Police, while heads of police stations are accountable to the head of their regional police directorate. Specialised units are based in the headquarters (e.g. Criminal Police Directorate, Traffic Police Directorate, Border Police Directorate, Uniformed Police Directorate, etc.) and regional organisational units (the City of Belgrade Police Directorate and regional police directorates).

115. The Ministry of the Interior provides the organisational prerequisites for the work of the police, in accordance with the adopted public policies and strategic acts of the National Assembly and the Government, in particular with a view to strengthening the trust between the public and the Police, developing police ethics and professionalism and preventing and combating corruption within the Police.

116. Criminal investigations are managed by public prosecutors, who directs the work of the police in pre-investigation proceedings. To this end, a public prosecutor can order the police to undertake certain actions, and the police is required to report back.

Access to information

117. The police, as any public authority, falls under the remit of the LFAIPI (see para. 54). As described above, information can be requested from public authorities by submitting a formal request, to which a public authority has 15 days to respond. Access to information may be restricted, amongst other things if it would jeopardise, obstruct or impede the prevention, detection or indictment of a criminal offence, pre-trial proceedings or trial or would seriously threaten public safety.

118. Operations of the Ministry of the Interior are public, and the Ministry is to regularly inform the public of its operations in a timely and complete manner, except when undertaking actions pursuant to the CPC or when informing the public would obstruct the smooth operation of police procedures, would breach data secrecy regulations, damage the dignity of citizens or violate a citizen's right to personal freedom and safety (Art. 6 LP). The Ministry is to publish each year a report on the state of safety in Serbia (including crime trends) and a report on the operation of the Ministry (including statistical data on the activities of the police and results achieved), in addition to quarterly reports on its operations, as adopted by the Committee on Internal Affairs of the National Assembly.

Public trust in law enforcement authorities

119. The GET was made aware that surveys concerning public trust in the police are somewhat contradictory. According to a survey carried out in 2018 by the Belgrade Centre for Security Policy, published with EU support, 61% of respondents trust the police. At the same time, 69% believe the police is corrupt and 72% that their actions are subordinated to politics. Traffic police officers are perceived as the most corrupt with 73% of respondents believing

they are corrupt, followed by border police officers on 68% and officers from the criminal police on 59%. These figures need to be further assessed and taken into account by the Serbian authorities, when policies against corruption are developed.

Trade unions and professional organisations

120. Police officers and other staff of the Ministry have the right to join trade unions. Until the beginning of the Covid-19 pandemic, the Ministry's working group for co-operation with employee unions met quarterly to discuss economic and labour issues of relevance to the position of staff of the Police. Trade unions can represent staff in interactions with the Ministry, for example in disciplinary proceedings.

Anticorruption and integrity policy

Anti-corruption and integrity policy

121. There is no dedicated anti-corruption strategy for the Police. However, Article 230 LP explicitly instructs the Internal Control Sector (ICS) to carry out various measures for the prevention of corruption, namely corruption risk analyses and integrity tests as well as the verification of asset and income declarations of police staff. A new integrity plan is to be developed and a working group has been established in 2017 for that purpose. In addition, the recently adopted Operational Plan on Corruption Prevention has identified the Police as a specific area where action is needed, notably to strengthen the capacity of the ICS and the Anti-Corruption Department as well as training.

122. The GET notes that a working group was formed five years ago to work on an integrity plan that is yet to be completed. The general goals set out by the global Operational Plan on Corruption Prevention need to translate into a strategic document for the police. Moreover, it focuses on strengthening institutional structures whereas risk pockets need also to be identified for better targeted action. The GET considers that adopting a strategic document to prevent corruption in the police should be an absolute priority. It should be based on in-depth risk assessments and contain detailed goals with a timeframe to achieve them. It could build, for instance, on the corruption risk analyses undertaken by the APC, on the results of integrity testing conducted in case of suspicions (see para. 126) and on established breaches by police officers (see paras. 194-196). An evaluation of its implementation should also be carried out, for example by the APC. The GET stresses the importance of such a strategic document and the evaluation of its implementation being both made public to ensure accountability over actions taken to prevent corruption within the police. This is vital in a context where a large section of society believes that the police is heavily corrupt (see para. 119). Therefore, **GRECO recommends that a strategic document on corruption prevention in the police identifying risk areas and setting clear goals be adopted and made public as soon as possible.**

Risk management measures for corruption prone areas

123. As indicated above, the ICS must carry out a corruption risk analysis to be conducted for all organisational units and job positions in the Ministry of the Interior in cooperation with the APC. It must be followed by the preparation of recommendations and measures for the prevention, mitigation and elimination of corruption risks or consequences of corruption, as well as the control of the implementation of these measures and a repetition of the exercise where needed. This is distinct from integrity plans.

124. In 2018, the Minister of the Interior adopted an instruction on the methodology for the corruption risk analysis. It prescribes the setting up of a working group of representatives of the ICS and the organisational unit where the analysis is to be conducted, which analyses work activities, the legal framework, procedures, complaints, disciplinary procedures, criminal charges and reports of preventive controls and imposed measures, describes risks of corruption, conducts interviews and surveys among employees. This data is used to identify corruption risks for each activity in an organisation unit, analysing the source of each risk, its probability, likely impact and level of exposure as well as existing preventive and control measures, followed by the determination of priorities for intervention. The information obtained is to be entered into a risk register and followed by a report, which is to include deadlines for the implementation of further measures to prevent, mitigate and eliminate risks of corruption. The head of the unit in which the corruption risk analysis was carried out is to report back to the ICS on the implementation of these measures within six months.

125. To date, working groups to conduct risks analyses have been set up in the Border Police Directorate and Traffic Police Directorate (April 2019), Administration Affairs Directorate (August 2019), Uniformed Police Directorate (April 2020), special and specialised police units (June 2020), as well as the Bureau of Police Directors, the Criminal Police Directorate, the Directorate of International Operational Police Cooperation, the Office for Coordination of Activities in Combating Trafficking in Human Beings, the Sector for Emergency Situation and the Command and Operations Centre. The performance of corruption risk analyses in the units for which the working group was established in 2019 are in their final phase but were delayed by the Covid 19 pandemic. In addition, working groups to conduct risks analyses have been set up in all regional police directorates.

126. Other prevention measures include integrity testing (Art. 230a LP) and the verification of asset and income declarations of police staff (Art. 230c LP, see para. 166). Integrity testing is conducted by the ICS and is designed to test the inclination of an employee towards corrupt behaviour through a simulated situation. They explicitly include covert activities and does not necessitate prior notification of the unit where the employee works. It is carried out in accordance with the Rulebook on the method of integrity testing (as adopted in May 2018) and based on a plan approved by the Assistant Minister of the Interior responsible for internal affairs. A negative result of the integrity test may result in the initiation of disciplinary procedures against the tested employee (Art. 207 LP). Out of 17 integrity tests conducted in 2020, 5 were negative and were notified to the prosecutor's office; two requests were processed to collect the necessary information. The GET encourages the authorities to step up this practice as a practical way of identifying areas where risks are more prevalent and informing preventive strategies (see para. 122).

Handling undercover operations and contacts with informants and witnesses

127. Undercover operations are regulated by Articles 183-187 CPC and must be authorised by a court (upon motion of a public prosecutor). They are authorised if evidence for a criminal prosecution cannot be secured by other special evidentiary actions (covert actions) or if their collection would be made substantially more difficult. They are authorised for one year (extended by a maximum of six months by a judge). Undercover agents must submit periodical reports to their immediate superior, who in turn reports to the judge overseeing the preliminary proceedings at the end of the undercover operation. The judge provides the materials and report to the public prosecutor. Undercover agents are prohibited from inciting the commission of a criminal offence, and court decisions cannot be based to a decisive extent on their testimony.

128. Contacts with third parties, such as informants and witnesses, are similarly regulated by the CPC, complemented by the Mandatory Instruction on the Operational Work of the Police issued by the Minister of the Interior. A court can authorise special protection measures for witnesses and informants (Art. 105-112 CPC).

Ethical principles and rules of conduct

129. Rules of conduct are enshrined in the Code of Police Ethics, adopted in March 2017. The code covers such issues as respect for human rights, professionalism and independence, service to the community and protection of the reputation and integrity of the police. It prescribes that police officers are not to solicit or receive gifts for their work, not to abuse their official positions, to fight against all forms of corruption and not to use or disclose without authorisation any data obtained while in service. The code forms part of the training programmes of the Ministry of the Interior.

130. Police officers are "obliged to perform police tasks in line with the law, other regulations and rules of profession and in compliance with the provisions of the Code of Police Ethics" (Art. 45 LP). In addition, Article 12 of the code provides that "behaviour contrary to the provisions of the code shall be considered as detrimental to the reputation of the Ministry and of the police profession". "Conduct damaging to the reputation of the Ministry" is in turn listed as a serious violation of duty in Article 207 LP.

131. The GET notes that the current Code of Police Ethics couches in rather general terms the issues connected to corruption, essentially in one article. In order to guarantee the highest standards of professional conduct, it is necessary to revise this Code of Police Ethics and expand on relevant integrity issues (e.g. conflict of interest, gifts, contacts with third parties, outside activities, the handling of confidential information) and take into account the latest developments in corruption prevention (e.g. use of social media). Importantly, it should also be supplemented with proper practical guidance in order to link the principles contained in the code to the daily work of police officers and more prevalent risks. Guidance should be understood as a manual including practical examples, notably based on experience in Serbia, to illustrate the complexity of the situations covered by these principles and steps to be taken to avoid or defuse corruption threats. This should start with the very notion of conflict of interest, which should be made clear and properly illustrated. Guidance should also draw inspiration from the real cases of breaches committed by police officers, in an anonymised way, as they are likely to point to issues where corruption risks are higher. The GET was told that at the moment cases are not used, even redacted, to inform police officers on the implementation of integrity standards. While the GET welcomes that there are instructions recently adopted, such as on gifts, it considers that the Code of Police Ethics should be the reference text where all standards are clearly laid down, illustrated by a guidance document. This instrument, if amended, would be pivotal to ensure a better police culture regarding corruption prevention.

132. Consequently, revising and supplementing the Code of Police Ethics is crucial to ensure that these principles find true resonance in the day-to-day work of police members. Such a revision should go hand-in-hand with practical guidance based on real-life examples. It should be enforceable in case of a breach. Furthermore, another important dimension is the information of the public about such a revised code so that they know what conduct to expect from police officers, therefore contributing to reducing corruption risks and reinforcing trust in the police. This implies not only making public the code but taking active steps to publicise

it among citizens. For these reasons, **GRECO recommends that (i) the Code of Police Ethics be updated so as to cover in detail all relevant integrity matters (such as conflict of interest, gifts, contacts with third parties, outside activities, confidential information), be supplemented with guidance illustrating all issues and risk areas with concrete examples and enforceable in case of breach, and (ii) that the code be made known and accessible to the public.**

Advice, training and awareness

133. Mandatory training for police officers is conducted according to the "Programme for the professional development of police officers", which includes the Law on Whistleblower Protection. In 2020, the Ministry of the Interior planned to implement a specialised training on preventing and combating crimes with elements of corruption, but due to the Covid-19 pandemic this has not taken place yet. This training was planned to be conducted in 2021. The total budget for professional development in the police was RSD 3.36 million (approx. EUR 28 560) in 2021, of which RSD 373 200 (approx. EUR 3 171) was devoted to the abovementioned training on preventing and combating crimes with elements of corruption.

134. The Code of Police Ethics is studied as a part of the Basic Police Training on "Community Policing, Human Rights and the Code of Police Ethics". This subject is covered by 34 lessons and one of its general outcomes is that after training, participants are to be able to "apply the provisions of the national code of police ethics when performing police work".

135. The professional development programme is adopted on an annual basis, based on a previously conducted training needs analysis, which determines: which teaching topics and for which police officers are to be mandatory; which are to be optional; and which seminars for which target groups can be held during the year. The professional development programme for police officers for 2021 envisaged the following seminars: "New institutes in the prevention of corruption established by the Law on Police - Integrity testing, asset declaration, corruption risk analysis and security checks for managerial positions" which is intended for heads of organisational units in the Ministry; "Fight against corruption" which is intended for the members of the Uniformed Police Directorate, Criminal Police Directorate, Border Police Directorate, Traffic Police Directorate, Unit Protecting Specific Persons and Facilities, and Internal Control Sector; "Advanced training for investigation of financial crime and corruption", which is intended for the members of the Criminal Police Directorate. Police officers of the ICS can follow on an optional basis training on "integrity tests". Professional training and professional development of police officers is under jurisdiction of the Police Training Centre. Refusal or unjustified failure to appear at a compulsory training is considered a serious violation of duty (pursuant to Art. 207 LP) sanctioned by disciplinary measures.

136. The authorities have provided several examples of training provided in 2019, such as the training provided within a EU-Twinning Project on conducting corruption risk analyses for the ICS and various police officers in the General Police Directorate (in October 2019), the training on practical examples of assessing corruption risks (in December 2019) and the workshop on risk assessment methodologies (in June 2019) as part of the Regional Police Cooperation and Integrity Building Programme for the Western Balkans. In cooperation with the OSCE Mission to Serbia and the Geneva Centre for Security Sector Governance (DCAF), the ICS organised online trainings for police officers of the Internal Control Sector and members of working groups for carrying out corruption risk analysis at the Ministry of the interior.

137. When it comes to advice procedures, the authorities indicate that staff of the police can refer to the competent organisational unit of the Ministry of the Interior to obtain advice or additional information on the applicable integrity rules and the conduct expected.

138. The GET considers that the training framework on corruption prevention appears to be adequate in its format, both for initial and on-going training. However, the GET was told on site that for on-going training, the heads of police units decide which police officers should be attending the training upon a show of interest. This means that on-going training on anti-corruption is not compulsory for all serving police officers. The GET considers it important not only to take fully on board the revised and expanded Code of Police Ethics and its practical guidance (see para. 132), but also to include it across the board as compulsory training both for new recruits and serving police officers; the aim is to truly embed it in police culture. It is also crucial to better signpost how police officers can obtain advice on how to respect the standards of the Code of Police Ethics and to ensure that advice is obtained confidentially by adequately trained persons; the GET got the sense from its meetings during the visit that room for improvement in this area was needed. The above also provides a step to gain more trust from the citizens in the police, which is vitally important in any democracy. Therefore, **GRECO recommends that (i) compulsory training for new recruits and serving police officers be organised on the basis of the revised Code of Police Ethics; (ii) efforts be made to clarify to police officers how to obtain advice on integrity matters and to ensure that the confidentiality of such advice is kept.**

Recruitment, career and conditions of service

Recruitment requirements and appointment procedure

139. Staff of the Ministry of the Interior can be divided in three categories: police officers, civil servants (who carry out general, legal, informational, financial, accounting or administrative tasks) and employees (who carry out technical and support tasks). Conditions of employment of policer officers are provided for by the LP, which prescribes an open competition. The procedure of such competitions is governed by the Regulation on Conducting the Public Competition for Filling Work Conditions of a Police Officer in the Ministry of the Interior. Vacancy notices are published widely, including on the intranet and the website of the Ministry, in a daily newspaper, as well as on the website and in periodical advertisement publications of the National Employment Service. Applicants are employed as probationary police officers once they have successfully passed the public competition. Probation for positions requiring second-degree higher education, i.e. four-year basic academic studies, lasts one year; for positions requiring first-degree higher education, i.e. three-year basic academic studies, probation is of nine months; and for positions requiring secondary education, probation takes six months. During probation, they have to complete the basic level police training within one year. They subsequently obtain the status of police officers if they pass the probationary period and a licence exam.

140. In addition to the general requirements for entering into employment at a state authority[25] and requirements of the position in question, applicants are required to have Serbian citizenship, be a permanent resident for at least one year prior to the application and no security-related impediments for performing tasks within the Ministry (Art. 137, LP). While the LP stipulates that the Ministry is to pay due attention to the presence of members of

[25] Not having previously terminated their employment in a state body due to a serious breach of duty and not having been sentenced to imprisonment of at least six months.

national minorities and general policy documents promote gender equality, the aim of the recruitment procedure is to recruit the most competent person without other considerations regarding the profile of the candidates.

141. Managers at middle and operational level are appointed by the Chief of Police, on proposal of the immediate supervisor of the position to which the person is to be appointed, in accordance with the ranking following an internal competition (Art. 152 LP). Managers at higher and strategic level are appointed by the Minister of the Interior, on proposal of the Chief of Police, on the basis of the ranking of candidates following an internal competition (Art. 150 LP). The Chief of Police in turn is appointed by the Government for a period of five years, renewable once, upon the proposal of the Minister of the Interior, following a public competition and reappointed for a second term without a public competition (Art. 149 LP).

142. The independence of investigations vis-à-vis the Government is a concern which was expressed not only in the above-mentioned survey (see para. 119) but also by a number of stakeholders met by the GET. The fact that the appointments to senior management posts in the police are ultimately in the hands of the Government and, apart for the post of Chief of Police, the Minister of the Interior, can be seen as playing a role in that respect. This appears to be illustrated by the fact that when the current Government took office in October 2020, key postholders were replaced, including the Head of the Anti-corruption Department, the Head of the Criminal Police Directorate, the Head of the Department for Fight against Organised Crime, the Head of the Internal Control Sector, the Head of the Border Police Directorate, the Head of the Human Resources Sector, as well as the heads of several regional police directorates. In its Progress Report for 2021, the European Commission (EC) considered that this demonstrated that the legal framework was still insufficient to guarantee the operational autonomy of the police from the Ministry of the Interior.[26] The GET concurs with the EC in this respect. Moreover, the Chief of Police is appointed following an open competition but can be reappointed without any competition taking place.[27]

143. In order to avoid risks of politicisation of appointments in the police and of investigations, the GET considers that the integrity, due process and transparency of appointment procedures in key positions in the police should be strengthened in order to prevent political appointments to the greatest extent possible and to remove any impression that appointments are not made strictly on merit and competence. There should also be an open, transparent competition procedure at the end of each term of office of the Chief of Police. For the above reasons, **GRECO recommends that measures be taken to prevent political appointments of top police officials and that the procedure leading to the appointment of the Chief of Police, including in case of reappointment, and other senior management posts includes a more open and transparent competition.**

144. All applicants to the Ministry of the Interior are vetted. This vetting (or security check) requires the consent of the person concerned and the persons living in his/her household. The person being vetted is first to complete a detailed questionnaire, which can be followed by an interview and may include observation of his/her activities and conversations with other persons associated with him/her, as well as a check of public records, information from international police cooperation and, if required, data of other security services (Art. 144 LP).

[26] https://ec.europa.eu/neighbourhood-enlargement/serbia-report-2021_en

[27] In addition, investigations are overseen by public prosecutors and GRECO has expressed some misgivings on the influence of the legislative and executive powers in their recruitment and in the State Prosecutorial Council which would deal with disciplinary proceedings (recommendations viii and ix). In the 2nd compliance report both remain partly implemented.

145. There are three levels of vetting: a first level security check (involving data from the official records of the Ministry and data collected by direct operational and field work), a second level security check for all mid-level managers (involving additionally a verification of data from the records of public institutions and other holders of public power) and a third level security check for state officials/appointed persons (i.e. managers a high and strategic level in the Ministry, for whom it would additionally involve data from the records of other security services) (Art. 141 LP). Both the second level and third level security check are carried out by the ICS.[28] The second level security check is valid for a period of five years and the third level security check for a period of four years, but this period can be shortened if there are suspicions of security-related impediments or in other cases prescribed by law. A manager can ask to have a security check renewed for employees assigned to his/her organisational unit, if s/he suspects that there are certain security-related impediments involving the employees concerned. For specific positions in the police the security check will additionally include a mandatory polygraph test.

146. The GET notes that there is no regular vetting as a general rule and additional vetting will only be carried out upon the request of the line manager of a police officer. The GET emphasises that personal circumstances are likely to change over time and, in some cases, make a person more vulnerable to possible corruption risks (financial problems arising, for example, as a result of a mortgage or consumer loan, divorce, the illness of a relative, the bankruptcy of a spouse, etc.). Therefore, regular vetting should become the rule as a tool for prevention. Furthermore, some sectors having already been identified as particularly risk prone, namely traffic police and border police and other being particularly sensitive areas such as corruption and organised crime, it would be all the more beneficial to ensure regular vetting for personnel working in these areas. For these reasons, **GRECO recommends that security checks relating to the integrity of police officers be carried out at regular intervals throughout their career.**

Performance evaluation and promotion to a higher rank

147. Annual appraisals of police officers are conducted by their immediate supervisor (with a second level control provided by the hierarchical superior of the supervisor) (Art. 167 LP). The results of the appraisal are expressed in performance grades, in accordance with the benchmarks for grading provided by the Regulation on the Grading of Police Officers. Appraisals are taken into account for promotions and appointments to higher-level positions. Police officers can be transferred to another unit if the basic competencies required for their position or work results are appraised to be unsatisfactory. If they receive two consecutive unsatisfactory grades (grade 1), their employment can be terminated. If police officers are not satisfied with their performance grade, they can submit a request for re-examination to a special re-examination commission.

148. Career advancement in the Ministry of the Interior is possible for candidates who have obtained the required education standard, reached the required number of years of service, successfully completed the required training and have a three-year average appraisal grade not lower than grade 4 (outstanding), and may for certain positions also involve an exam (Art. 165 and 166 LP). All vacancies are published internally (Art. 150 LP).

[28] Security checks of officers of the ICS are carried out by the Data Security and Protection Service. Officers of the which are in turn vetted by a commission formed by the Minister.

Rotation

149. There is no system of regular rotation in the police. There are no minimum or maximum tenures for specialist or sensitive posts. Staff movements mostly occur in the context of career development but can also happen for other reasons, such as family reunification, permanent disability, failing to pass a psychological test or unsatisfactory job performance (Art. 196 LP). A transfer to a different location more than 50 kilometres from a staff member's place of employment would require his/her consent unless it is the same police administration or the police administration whose territorial competence includes the place of residence of the staff member (Art. 197 LP). Temporary transfers are also possible but not for more than six months in a calendar year (Art 198 LP). Decisions on transfers can be appealed to the Complaints Commission of the Government.

150. The GET notes that some sectors, including traffic police and border police, have already been identified as being particularly prone to corruption as reflected notably by cases leading to sanctions. Other sectors such as organised crime and crime departments or police officers dealing with informers are traditionally sectors where risks are higher owing to the daily proximity with persons gravitating around the underworld. For this reason, the setting-up of some sort of rotation has been shown to be a useful prevention tool for the most sensitive posts, coupled with more frequent vetting (see paras. 143). Rotation is not to be understood as a rigid notion and can be adapted to the sectors concerned and the context. The aim is to avoid police officers spending a significant part of their career and sometimes their whole career in specific work or geographic area, notably where corruption risks are higher. There are various ways to achieve that, such as incentives and professional development schemes. Therefore, **GRECO recommends that an institutional system of rotation of police staff be put in place, which could be applied, as appropriate, in areas considered particularly exposed to corruption risks.**

Termination of duties and dismissal

151. The employment of police officers is terminated if it is established that they no longer fulfil the basic conditions for employment in the Ministry of the Interior or have been convicted to six months' imprisonment for corruption-related or other offences (Art. 172 LP). No appeal is possible for such decisions. Employment may also be terminated as a result of disciplinary proceedings for severe violations of official duty, following two consecutive annual unsatisfactory work performance grades or for a refusal to undergo treatment for addiction. In these cases, a staff member can appeal the decision to terminate his/her employment with the Complaints Commission of the Government or go to court.

Salaries and benefits

152. The initial salary is dependent on the rank and years of service; the total salary coefficient also includes the sub-coefficient of rank, i.e. position, while the LP prescribes that the salary of police officers is increased with years of service. The average net/gross monthly salary (in 2021) was RSD 82 654/141 629 (approx. EUR 702/1 204). The gross annual salary of a criminal inspector in the Anti-Corruption Service at the beginning of his/her career (gross salary 1) amounts to RSD 1 635 663 (approx. EUR 13 903). The starting salaries also take into account prior relevant experience. A police officer is entitled to 80% of the starting salary during their probationary period. Salaries increase with seniority and on promotion. Other than the ordinary benefits deriving from employment (solidarity assistance fund, etc.), all

employees of the Ministry of the Interior benefit from a benefits programme, which provides for discounts on certain goods and services.

Conflicts of interest

153. Article 25 of the Law on Civil Servants (LCS) requires civil servants (which includes all staff of the Ministry of the Interior) to do everything in their power to avoid a conflict of interest.[29] The LCS applies to police officers when the matter is not covered by the LP. Upon becoming aware of a conflict between their private interests and the public interest, civil servants are to immediately notify their supervisor in writing and recuse themselves from performing tasks related to the potential conflict of interest. If the supervisor determines that there is no conflict of interest, s/he shall notify the civil servant in question within three days, after which s/he can continue performing his/her previous tasks (Art. 30 LCS). The authorities indicate that the Ministry of the Interior is planning to keep records on notifications of conflicts of interest and recusals.

154. If a civil servant has doubts as to whether a conflict exists between his/her private interests and the public interest, s/he is obliged to ask the opinion in writing from the head of the public authority in which s/he is employed, who has to reply to this query within five days (Article 30a LCS).

155. The Code of Police Ethics does not contain any specific references to conflicts of interest but reflects in general terms that police officers should not abuse their official positions and are to fight against all forms of corruption. The GET considers it primordial that the Code of Police Ethics defines clearly what is behind the notion of conflicts of interest in the specific context of the police, and that the accompanying guidance provides concrete examples drawn from the national situation and cases having led to sanctions. It refers in this respect to the earlier recommendation on the revision of the Code of Police Ethics (see para. 129).

156. The Chief of Police, heads of sectors and certain police officers considered to be public officials for the purpose of the LPC. The provisions of this law on conflicts of interest therefore also apply to them. However, the GET was told that for the time being there is no register of declarations of ad hoc conflicts of interest in the police which should be remedied in order to track and trace those situations of conflict in a more systematic way and, for instance, detect whether there are persons or work areas where conflicts of interest arise more often in order to inform preventive measures.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and post-employment restrictions

157. Pursuant to Article 168 LP, staff of the Ministry of the Interior may have a secondary employment or engage in other remunerated activities with the permission of their manager and on condition that it is not considered incompatible with the rights and obligations of civil servants under the LCS, in that this could lead to a conflict of interest or otherwise influence the impartiality of the work. Certain types of activities do not however require consent.[30]

[29] A conflict of interest is defined in the LCS as a situation in which a civil servant has a private interest that affects, may affect or appear to affect his/her conduct in the performance of his/her duties, in a manner to the detriment of the public interest. Private interest in turn has been defined as "any benefit or advantage for the civil servant or a person related to him/her."

[30] Consent is not required for scientific research, publications, work in cultural, humanitarian, sports and similar associations, but the person concerned is obliged to inform his/her manager thereof (upon which the manager may still prohibit the

When engaging in other tasks and activities, employees of the Ministry of the Interior may not use their status as a police officer, nor can they use their police ID, weapon or any other means of the Ministry. Any knowledge of possible criminal offences or illegal activities employees may obtain through their additional activities must immediately be reported to their direct manager and the competent organisational unit. Police officers are prohibited from being members of political parties or otherwise involved in political parties.

158. Since engaging in activities that are incompatible with official duty constitutes a serious violation of official duty (Art. 207 LP), if no criminal offence has been committed, the implementation of measures to determine disciplinary liability falls on the head of the organisational unit. If the ICS receives a statement that an employee has engaged in activities incompatible with police duties, it is to perform checks, including records (e.g. Serbian Business Registers Agency). If there are no grounds for suspicion that a criminal offence has been committed, the case is forwarded to the competent organisational unit to initiate disciplinary proceedings.

159. In addition, Article 28 of the LCS explicitly prohibits that civil servants establish a company, public service or engage in entrepreneurial activities. Upon becoming a civil servant, s/he is to transfer his/her management rights in an economic entity to another person (and inform their manager and the Agency for the Prevention of Corruption thereof). Further restrictions are added by Article 29 of the LCS, providing that civil servants cannot be a director or deputy/assistant director of a legal entity or member of the management or supervisory board or other management body of a legal entity, unless appointed by the government or another state body. Civil servants may however be members of bodies of associations, but have to inform their manager.

160. The GET is of the view that where secondary activities are permissible, there should be an adequate system in place not only to authorise those activities but also to check regularly that they still correspond to what has been authorised and/or that no conflict of interest has arisen over time. For this purpose, a proper record should be kept of all authorised activities carried out by police officers. Moreover, the GET was told that there was no practical document to guide police officers on the subject of secondary activities, the only reference being the law. It would be important that such a document be developed and at the very least that it is dealt with by a revised Code of Police Ethics as it is not covered by the current code (see para. 132). **GRECO recommends that secondary activities of police officers be duly recorded and that regular checks be undertaken thereafter.**

161. There are no post-employment restrictions applicable to staff of the police or civil servants in general. For the Chief of Police and certain other high-level officials of the Ministry, provisions on secondary activities and post-employment in the LPC apply.

Gifts

162. Police officers (and persons related to them) may not request or receive a present, service or any other benefit for themselves or a related person, which may affect or may be seen to affect the impartial and professional performance of their duty, or which may be considered as a reward in connection with the performance of their duties (Art. 25a LCS). Exceptions are occasional gifts (i.e. gifts received when it is traditional to exchange gifts or which are exchanged as protocol). Acceptance of money or securities is prohibited under any

secondary activity if it is considered to prevent or complicate their work, damage the reputation of – in this case – the Ministry of the Interior, create a potential conflict of interest or otherwise affect the impartiality of the civil servant).

circumstance. Police officers must inform the Ministry of the Interior about the gift no later than the next working day, and gift records are kept. Article 6 of the Code of Police Ethics furthermore provides that police officers "shall not solicit or receive gifts for their work". The Instruction on Gifts in the Ministry of the Interior was adopted on 24 August 2021. According to this instruction, police officers can keep gifts whose value is up to RSD 80 000 (approx. EUR 680); above this amount the gift becomes public property. The authorities are revising the instruction to make it clear that this amount is understood as a yearly amount but also to increase it from 5% to 10% of the average monthly salary in Serbia. A commission for recording received gifts is to be established to record them, control records on gifts and monitor gift stocks.

163. The GET considers it urgent to set up, as planned, a commission to keep track of received gifts and to be responsible for their valuation. Given its central role in consolidating a culture of integrity in the police, the revised Code of Police Ethics should set out clear standards and possible sanctions in case of breach (see para. 132). Moreover, it appears all the more crucial to record all gifts considering that the Ministry of the Interior authorises that occasional gifts of up to EUR 680 be kept by police officers; this appears to be quite a high amount, even if understood as a yearly amount, and ought to be lowered considerably. Therefore, **GRECO recommends that a body responsible for recording and evaluating gifts be set up as soon as possible and that the value of occasional gifts that can be kept by police officers be considerably reduced.**

Misuse of public resources

164. The improper, incorrect or inappropriate, loss or damage of technical or other equipment, or means assigned to the employee or which the employee use in the performance of official duties, wilfully or due to gross negligence constitutes a serious violation of official duty (Art. 207 LP). Furthermore, this may constitute a criminal offence embezzlement and/or abuse of official position (Art. 364 and 359 CC).

Misuse of confidential information

165. Police officers must keep confidential all information obtained during the performance of police tasks (Art. 40 LP). Similarly, Article 7 of the Code of Police Ethics provides that police officers must not disclose or use without authorisation "data obtained while in service or while performing official duties, in particular such data that may jeopardise the course of legal proceedings or the rights of third parties". The disclosure of information marked as confidential is a serious violation of official duty (Art. 207 LP). The duty of confidentiality, which persists after leaving employment, also follows from the Criminal Code, such as violation of the confidentiality of court and other legal procedures (Art. 337(1) CC), disclosure of information on special protection programmes or personal data of persons protected in criminal proceedings (Art. 337(3) CC) or the revealing of an official secret (Art. 369 CC).

Declaration of assets, income, liabilities and interests

166. Since January 2019, managers and employees in high-risk positions[31] in the Ministry of the Interior are required to file a declaration of assets and income with the ICS (Art. 230c LP). These declarations are to include information on income from employment and other activities, assets (immovable property, registered moveable assets – vehicles, weapons etc. –

[31] The abovementioned corruption risk analysis establishes which positions are high-risk, with the persons performing these functions thus required to submit assets and income declarations.

and moveable assets of large value – valuables collections, artwork etc.), bank deposits, debts, receivables, shares and other securities, the right to use an apartment for official purposes and other information of relevance (such as bonuses, deposit boxes, etc.). They also explicitly include income and assets of the partner/spouse of the person concerned and other members of a shared household. Any changes in ownership of property must be reported to the ICS by 31 January for the previous year. The data in these declarations is not made public.

167. In addition, the Chief of Police, the heads of sectors and police officers of the Service for Combating Organised Crime and the Anti-Corruption Department are required to submit a declaration on of their assets and income to the APC (Art. 67 LPC). The Agency shares this data with the ICS at the Ministry of the Interior.

Review mechanisms

168. The Division for the Declaration of Assets of the ICS is responsible for verifying the information provided in the asset and income declarations of police officers. The ICS adopts a regular plan for the control of asset and income declarations. Failure to report assets or changes in ownership status of those assets constitutes a serious violation of official duty (Art. 207 LP).

169. If the ICS determines that assets have not been declared (or not on time) or the declaration contains incorrect data,[32] it prepares a report ordering the elimination of any irregularities and the initiation of disciplinary proceedings, which it submits to the head of the organisational unit where the employee works. The head of the organisational unit is in turn responsible for the implementation of these measures and is to report back to the ICS. The ICS uses software also used by the APC (Register of Assets and Revenues) and data from the Republic Geodetic Authority (land register), the Agency for Business Registers, the Tax Administration and the Administration for the Prevention of Money Laundering. Thus far, the ICS has not come across any irregularities in the declaration of assets and income of managers and employees in high-risk positions in the Police.

Oversight mechanisms

Internal oversight and control

170. Internal oversight is hierarchically organised, with oversight being first of all the responsibility of the direct supervisor. All organisational units which acquire knowledge and information that an employee committed a criminal offence when on duty must notify the competent public prosecutor and the ICS within 24 hours. If only a violation of official duty is established, the disciplinary procedure is conducted by the organisational unit in which the police officer is employed. If the ICS established a breach the competent manager to initiate disciplinary proceedings but not of the outcome.

171. In addition, the ICS has been tasked with detecting and combating corruption-related criminal offences and other forms of corrupt behaviour, as well as other criminal offences committed on duty. In this context, it carries out second and third level security check, the review of the assets and income declarations of managers and employees in high-risk positions and integrity testing. It also assists the carrying out of corruption risk assessment. The ICS can act on its own initiative, at the request of a public prosecutor, on the basis of

[32] In 2020, the ICS checked the accuracy of the data reported in the declaration for 74 managers in the Ministry of the Interior, as well as for 132 persons with whom they live in a joint family household.

collected intelligence, information submitted by other employees or citizens. The head of the ICS reports regularly on the activities of the ICS to the Minister of the Interior, who shares these reports upon request with the Committee for Defence and Internal Affairs of the National Assembly, and to the competent public prosecutor on the actions undertaken to detect criminal offences. It also publishes an annual report on its operations, including statistical data.

172. The ICS employs 159 staff in the headquarters of the Ministry and in regional police administrations. In respect of their rights and duties, police officers of the ICS are equal to other police officers. Previous experience in the police is required to work for the ICS, and officers are vetted by the Security Information Agency and Data Security and Protection Service. The GET notes that the recently adopted Operational Plan on Corruption Prevention envisages the strengthening of the ICS capacity to enable it to fulfil effectively its mission, which the GET can only agree with considering the breadth of the ICS's competence and the need for a culture of integrity to be embedded durably in the police.

External oversight

173. External oversight over the Police is performed by the National Assembly, the assemblies of provinces and local self-government units, judicial authorities, independent state authorities for supervisory tasks and other authorised state authorities and bodies (Protector of Citizens and Commissioner for Information of public importance and personal data protection), as well as the public (Art. 221-223 LP).

174. The National Assembly supervises the operations of the Ministry directly and through the competent committee for internal affairs (Art. 222 LP). It does so, *inter alia*, through reviewing the operations of the Ministry and the ICS as well as the use of integrity tests.

175. Local self-governments have also been given an explicit role in oversight of the Police. They are authorised to review the report on the state of security in their territory and take position on the priorities for the security of people and property and provide proposals to the manager of the relevant organisational unit of the Ministry (Art. 223 LP).

176. Oversight is also provided by the Protector of Citizens, an independent state institution that monitors the legality of the work of public authorities (Art. 138 Constitution). S/he is appointed by and reports to the National Assembly. The Protector of Citizens can act on complaints of citizens or *ex* officio. Public authorities are required to co-operate in his/her investigations. If s/he finds that a public authority has acted unlawfully or improperly in matters concerning the rights, freedoms or interests of citizen, s/he can make recommendations. The public authority is required to report back within a deadline set by the Protector of Citizens (from 15 to 90 days from receipt of the report) on the follow-up given to these recommendations. Should it fail to respond or address them in part or in full, the Protector of Citizens can inform the directly superior authority, the National Assembly, the Government and the public.

177. The Protector of Citizens acts, *inter alia*, on complaints about the work of the police or initiates procedures on his own initiative to control the legality and regularity of the work of the Ministry of the Interior, identifies shortcomings and irregularities and makes recommendations. Complaints relate, *inter alia*, to the inability to effectively exercise the rights related to the issuance of personal documents (ID cards, residence applications, passports, driver's licence) and to requests to initiate misdemeanour proceedings, filing criminal charges, and failure to act on final and enforceable judgments. In 2020,

132 complaints were received in connection with police affairs, 95 in 2019 and 127 in 2018. They concerned overwhelmingly the treatment of persons arrested by the police or excessive use of force during demonstrations.

178. As indicated above, the conduct of police officers in criminal investigations is overseen by the public prosecutor responsible for the pre-trial investigation.

Remedy procedures for the general public

179. Persons who consider that their human rights have been violated by the actions or omissions of police officers while on duty have the right to file a complaint within 30 days. Complaints can be made directly to the Ministry of the Interior, by phone, e-mail or letter. The complaint procedure cannot be conducted only on the basis of an anonymous complaint, but if can prompt checks if there is enough information. In addition, the ICS operates a 24/7 hotline where citizens can submit complaints. Complaints can also be received by the manager of the unit where the police officer against whom the complaint is made works, a person authorised by him or a complaints resolution commission (see below). ICS will only deal with criminal offence and will forward any other complaints to the competent police unit.

180. Complaints are generally handled by the head of the unit of the police officer concerned. After receiving the complaint, the head of the organisational unit must try and resolve the complaint through conciliation. If the complaint reveals that a police officer has violated his/her official duties, disciplinary proceedings must be initiated. If a criminal offence may have been committed, the competent prosecutor, the ICS and the head of the unit where the police officer works in is to be notified of the complaint without delay and they are to notify the complainant.

181. If conciliation has failed, the complaint is transferred to a complaints resolution commission. They exist at the headquarters of the Ministry and of all police departments, and all 60 of them are composed of three members appointed by the Ministry: a police officer as chairperson, an employee from the unit where the police officer works and a representative of the general public. The complaint procedure before the commission is to be completed by submitting a written response to the complainant within 30 days. The procedure is supervised by an expert authorised for this purposed by the Ministry. Once this procedure is over, complainants can turn to the Protector of the Citizens if they are unhappy with the outcome.

182. In 2020, the Ministry received 1 422 complaints, out of which 1 387 were filed against employees in regional police directorates and 35 against employees at the Ministry's headquarters. The largest number of complaints related to the work of police officers of the Traffic Police Directorate and the Border Police Directorate; the subject of complaints were mainly unprofessional conduct and behaviour of police officers towards citizens. The annual report on complaints resolving was made available on the official website of the Ministry.

183. The GET is of the view that the current police complaint system is very much driven by the police and the Ministry of the Interior and therefore does not qualify as external oversight. From the information received on site, the Protector of Citizens deals primarily with human rights breaches, such as unwarranted use of force. As regards the complaint system described above, the GET was told that often during the initial conciliation phase citizens were discouraged from taking their complaints forward. In order to avoid a “police investigating the police” situation, stronger safeguards need to be put in place, notably to ensure that this phase is more transparent and independent from the chain of command. Moreover, the complaints resolution commissions would need to be more autonomous as their composition,

though mixed, is predominantly made of police representatives, and they are incorporated in the police headquarters and departments. Therefore, **GRECO recommends that the safeguards applicable to the mechanisms for oversight of police misconduct be revised and to ensure that they provide for sufficiently independent investigations into police complaints and a sufficient level of transparency**.

Reporting obligations and whistleblower protection

Reporting obligations

184. All organisational units of the Ministry of the Interior, which during their operations, acquire knowledge that an employee has committed a criminal offence while on duty or related to his/her duties, must notify the competent public prosecutor and the ICS, within 24 hours (Art. 227 LP). Furthermore, failure to report a criminal offence, misdemeanour or violation of official duty constitutes a severe violation of official duty and disciplinary measures can be imposed (Art. 207 LP). Under the LCS, civil servants and other employees are to inform their line managers if, in connection with the performance of their task, they learn that corruption was committed by a public official, civil servant or employee in the public authority where they are employed (Art. 23a). Similarly, Article 280 CPC prescribes that state and other bodies, legal and natural persons are to report criminal offences, which are prosecutable *ex officio*, of which they were informed or learned of in another manner, under the conditions stipulated by law or other regulation. Failure to report constitutes a criminal offence punishable with imprisonment of six months to five years (Art. 332, para. 2 CC).

185. Police officers are not to be held responsible for contacting the ICS, except in case of false reporting (Art. 227 LP). The ICS protects the personal data of the petitioners and police officers can also contact the Internal Control Sector anonymously. Staff who report corruption are to receive protection from the day of their report (Art. 23a LCS).

186. The Law on the Protection of Whistleblowers came into force in June 2015. It provides protection to persons who disclose information on violations of "regulations, human rights and public powers contrary to the purpose for which they were entrusted, danger to life, public health, safety and the environment, as well as for the purpose of preventing damage of a greater scope". The law describes three channels for whistleblowing: internally, externally and to the general public.

187. When whistleblowers report internally to their employer, the employer must protect them against retaliation, safeguard their identity, take measures to remove the irregularities raised by the whistleblowers, act upon the information provided by the whistleblowers within 15 days and inform them of what has been done. In November 2015, a Rulebook on the procedure for internal whistleblowing in the Ministry of the Interior was adopted. Whistleblowers can also report externally, by informing an authorised authority, which has to act within 15 days. Finally, the law explicitly provides whistleblowers the opportunity to inform the general public if there is an imminent danger to life, public health, safety, the environment or damage of a larger scope such as imminent danger of destruction of evidence.

188. The law explicitly prohibits the employer from taking adverse actions against whistleblowers (e.g. loss of promotion, development opportunities or wages, disciplinary measures, transfer or failing to take measures to protect them against harassment) and entitles whistleblowers to damages in case of adverse treatment, reversing the burden of proof in such cases. The court may impose temporary measures (e.g. prohibiting or ordering the removal of adverse measures against a whistleblower), even prior to the court

proceedings. The law also provides protection to persons associated with the whistleblower, if they suffer from retaliation for their association with the whistleblower.

189. The Protector of Citizens may control whether there is a violation of the provisions of the Law on Protection of Whistleblowers. For example, he may check whether the administrative body to which the whistleblower submitted information has acted on this information and taken measures required by the law. However, supervision over the application of the Law on Protection of Whistleblowers is performed by the Administrative Inspection in state administration bodies.

190. While the GET notes that legislation is in place, it appears from its meetings on site that it remains to translate into practice and, in particular, to convince of the effective protection of whistleblowers. No statistics could be provided on the number of police officers having benefited from the protection of the Law on the Protection of Whistleblowers. Therefore, the GET is of the strong view that further efforts need to be made to raise awareness of the law among police officers and the protection from which they can benefit. This also goes hand in hand with initiatives to make of the Code of Police Ethics a practical and central document in the police and to have it cover whistleblower protection. For these reasons, **GRECO recommends that awareness of and training on whistleblower protection be strengthened in the police.**

Enforcement and sanctions

Disciplinary proceedings

191. Minor violations of official duty include such issues as unjustified absence from work, not adhering to official working hours and unprofessional treatment of citizens (Art. 206 LP). Disciplinary sanctions range from a written reprimand to a fine amounting to 10-20% of the basic salary for the month in which the decision on disciplinary responsibility has become final (Art. 208 LP). Severe violations of official duty include disclosure of confidential information; misappropriation or improper use of the Ministry's equipment; conduct damaging to the reputation of the Ministry (which includes violations of the Police Code of Ethics); carrying out tasks incompatible with official duties; failure to report a criminal offence, misdemeanour or violation of official duty; obstructing the performance of internal control tasks; a negative result of the integrity test; and non-reporting of assets and changes in ownership (Art. 207 LP). For these types of offences sanctions can be imposed in the form of a fine amounting to 20-40% of the basic salary for a period of two to six months; transfer to another position in a lower pay group for a period of six months to two years; deferment of acquiring a higher rank or title for a period from two to four years; loss of an acquired rank/title and assignment of a lower rank/title, and ultimately termination of employment (Art. 209 LP).

192. Disciplinary proceedings are initiated in first instance by the manager of the staff member concerned, who is to authorise a senior disciplinary officer[33] or a person authorised by him/her to conduct the proceedings and decide on the disciplinary responsibility of the staff member.[34] Both the staff member and his/her manager who has initiated the procedure can object to the decision of the senior disciplinary officer to the Disciplinary Commission, a body of three persons – including a person from outside the ministry – appointed by the

[33] A senior disciplinary officer is a police officer with a university degree in law or another university degree with 10 years' professional experience assigned for this purpose (Art. 210 LP).

[34] The police officer / employee and his/her trade union representative have the right to participate in the proceedings (by making statements, presenting facts, evidence etc.) and can be represented by an attorney.

Minister of the Interior. Disciplinary proceedings can be conducted in parallel to criminal proceedings for the same fact (with a possible acquittal in criminal proceedings having no bearing on the disciplinary proceedings, if the actions/omissions of the police officer/employee have been qualified as a violation of official duty). Following the decision of the Disciplinary Commission, a police officer may initiate an administrative dispute.

Criminal procedure

193. Staff of the Ministry of the Interior do not enjoy immunity or other procedural privileges. They are subject to ordinary criminal procedures.

Statistics

194. In the period 2016-2020, the ICS filed the following criminal charges with the public prosecutor:

Year	***Number of criminal charges filed***[35]	***Number of staff against whom criminal charges have been filed***	***Number of criminal offences***	***Number of corruption-related criminal offences***[36]
2016	186	183	210	167
2017	142	149	388	324
2018	190	204	810	729
2019	203	209	321	247
2020	146	162	273	157

195. The corruption-related criminal offences mentioned above concerned the following:

Year	***Abuse of official position (Article 359 CC)***	***Passive bribery (Article 367 CC)***	***Trading in influence (Article 366 CC)***	***Abuse of position by a responsible person (Article 234 CC)***	***Total***
2016	88	76	2	1	167
2017	246	71	6	1	324
2018	268	453	8	-	729
2019	146	91	10	-	247
2020	94	35	1	-	130

196. The total number of criminal offences with elements of corruption committed by employees of the Ministry of the Interior during 2020 was 130. In 2018, a larger number of criminal offences of bribery was registered, given that several major criminal incidents were committed during that year, which included the application of special evidentiary actions. These incidents began in 2017 and 2018, and the realisation of which resulted in the arrest of a large number of police officers of the border and traffic police took place in 2018.

[35] One criminal charge may be filed for multiple acts and against multiple persons.

[36] These acts comprise abuse of official position (Article 359, Criminal Code), passive bribery (Article 357 Criminal Code), trading in influence (Article 366, Criminal Code) and abuse of position by a responsible person (Article 234, Criminal Code).

VI. RECOMMENDATIONS AND FOLLOW-UP

197. In view of the findings of the present report, GRECO addresses the following recommendations to Serbia:

Regarding central governments (top executive functions)

i. **laying down rules requiring that integrity checks take place prior to the appointment of ministers in order to identify and manage possible risks of conflicts of interest before joining government** (paragraph 24);

ii. **that (i) chiefs of cabinet and advisers (including of the President) undergo integrity checks as part of their recruitment in order to avoid and manage conflicts of interests; (ii) the names and area of competence of all advisers in Government and in the President's cabinet be made public and easily accessible** (paragraph 33);

iii. **that (i) strategic documents for preventing corruption amongst all persons with top executive functions be adopted for the Government and the Presidential administration, on the basis of risk assessments, and made public; (ii) the role of the Agency for the Prevention of Corruption be strengthened by making public its recommendations and the response of the Government and Presidential administration** (paragraph 38);

iv. **that (i) the remit of the Law on Prevention of Corruption be expanded to cover all persons with top executive functions (PTEFs), including the Prime Minister's and Deputy Prime Ministers' chiefs of cabinet as well as special and government advisers; (ii) a code of conduct applicable to PTEFs be adopted, covering integrity matters (e.g. conflicts of interest, contacts with lobbyists and third parties, post-employment restrictions, etc.), accompanied by sanctions for violations and appropriate practical guidance; and (iii) an appropriate document on conduct be developed for the President** (paragraph 43);

v. **that the advisory role of the Anti-Corruption Council in the institutional framework to combat corruption be fully acknowledged by ensuring that the Government engages with it, that all vacant posts of the Council be filled and that cooperation with the Agency for the Prevention of Corruption be formalised** (paragraph 49);

vi. **that (i) systematic briefing and training on all integrity standards be provided to all persons exercising top executive functions upon taking office and at regular intervals; (ii) confidential advice be available to the Prime Minister's and Deputy Prime Ministers' chiefs of cabinets as well as special and government advisers** (paragraph 52);

vii. **that (i) requests for information lodged with the Government or Presidential administration not receiving a positive response be subject to appeal before the Commissioner for Information of Public Importance and Personal Data**

Protection and (ii) enforcement of related decisions be kept under systematic review (paragraph 57);

viii. **that (i) laws emanating from the Government be systematically submitted for public consultations, and (ii) revised bills presented before the National Assembly be systematically accompanied by an explanatory note giving the legislative footprint of the draft law** (paragraph 63);

ix. **that (i) the notion of lobbying encompassed in the Law on Lobbying be expanded to cover contacts with persons with top executive functions (PTEFs) whether they have been formalised in a written request or not; (ii) contacts between PTEFs and lobbyists/third parties that seek to influence the public decision-making process be disclosed as well as the names of the participants and the subject-matters discussed** (paragraph 68);

x. **that all ministries be equipped with fully functioning internal audit units** (paragraph 69);

xi. **that (i) all persons with top executive functions be required to disclose ad hoc conflicts of interest; and (ii) the exception whereby they are dispensed of doing so in case of "danger of delay" in the decision-making process be removed from the law** (paragraph 74);

xii. **that post-employment restrictions rules apply to all persons with top executive functions, including the President, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinets as well as special and government advisers** (paragraph 88);

xiii. **that asset and income declarations of persons with top executive functions be subject to regular substantive control and that the Agency for the Prevention of Corruption be provided with adequate resources for that purpose** (paragraph 97);

xiv. **that (i) the immunity provided to members of the government be revised in order to exclude explicitly corruption-related offences; (ii) the competence of the Prosecutor's Office for Organised Crime be extended to cover all persons with top executive functions, including the President, for criminal offences against an official duty and be staffed adequately to fulfil its role** (paragraph 110);

Regarding law enforcement agencies

xv. **that a strategic document on corruption prevention in the police identifying risk areas and setting clear goals be adopted and made public as soon as possible** (paragraph 122);

xvi. **that (i) the Code of Police Ethics be updated so as to cover in detail all relevant integrity matters (such as conflict of interest, gifts, contacts with third parties, outside activities, confidential information), be supplemented with guidance**

illustrating all issues and risk areas with concrete examples and enforceable in case of breach, and (ii) that the code be made known and accessible to the public (paragraph 132);

xvii. **that (i) compulsory training for new recruits and serving police officers be organised on the basis of the revised Code of Police Ethics; (ii) efforts be made to clarify to police officers how to obtain advice on integrity matters and to ensure that the confidentiality of such advice is kept** (paragraph 138);

xviii. **that measures be taken to prevent political appointments of top police officials and that the procedure leading to the appointment of the Chief of Police, including in case of reappointment, and other senior management posts includes a more open and transparent competition** (paragraph 143);

xix. **that security checks relating to the integrity of police officers be carried out at regular intervals throughout their career** (paragraph 146);

xx. **that an institutional system of rotation of police staff be put in place, which could be applied, as appropriate, in areas considered particularly exposed to corruption risks** (paragraph 150);

xxi. **that secondary activities of police officers be duly recorded and that regular checks be undertaken thereafter** (paragraph 160);

xxii. **that a body responsible for recording and evaluating gifts be set up as soon as possible and that the value of occasional gifts that can be kept by police officers be considerably reduced** (paragraph 163);

xxiii. **that the safeguards applicable to the mechanisms for oversight of police misconduct be revised and to ensure that they provide for sufficiently independent investigations into police complaints and a sufficient level of transparency** (paragraph 183);

xxiv. **that awareness of and training on whistleblower protection be strengthened in the police** (paragraph 190)**.**

198. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Serbia to submit a report on the measures taken to implement the above-mentioned recommendations by 30 September 2023. The measures will be assessed by GRECO through its specific compliance procedure.

199. GRECO invites the authorities of Serbia to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 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.

GRECO Secretariat
Council of Europe
F-67075 Strasbourg Cedex
Tél. +33 3 88 41 20 00

www.coe.int/greco/fr

Directorate General I
Human Rights and Rule of Law
Information Society and Action
against Crime Directorate