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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

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

### SECOND COMPLIANCE REPORT

### “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

Adopted by GRECO at its 80<sup>th</sup> Plenary Meeting  
(Strasbourg, 18-22 June 2018)

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## **I. INTRODUCTION**

1. The Second Compliance Report assesses the measures taken by the authorities of "the former Yugoslav Republic of Macedonia" to implement the pending recommendations issued in the Fourth Round Evaluation Report on "the former Yugoslav Republic of Macedonia" (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on "the former Yugoslav Republic of Macedonia" was adopted at GRECO's 62<sup>nd</sup> Plenary Meeting (6 December 2013) and made public on 17 March 2014 following authorisation by "the former Yugoslav Republic of Macedonia" ([Greco Eval IV Rep \(2013\) 4E](#)). The Fourth Round Compliance Report was adopted by GRECO at its 72<sup>nd</sup> Plenary Meeting (1 July 2016) and made public on 12 October 2016, following authorisation by "the former Yugoslav Republic of Macedonia" ([GrecoRC4\(2016\)8](#)).
3. As required by GRECO's Rules of Procedure, the authorities of "the former Yugoslav Republic of Macedonia" submitted a Situation Report with additional information regarding measures taken to implement the 16 pending recommendations which, according to the Compliance Report, had been partly implemented. This report was received on 31 January 2018 and served as a basis for the Second Compliance Report.
4. GRECO selected Armenia and Denmark to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Artur OSYKIAN, on behalf of Armenia and Mr Martin Vedel STASSEN, on behalf of Denmark. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

## **II. ANALYSIS**

5. It is recalled that GRECO addressed 19 recommendations to "the former Yugoslav Republic of Macedonia" in its Evaluation Report. In the Compliance Report, GRECO concluded that the country had implemented satisfactorily or dealt with in a satisfactory manner three of the 19 recommendations (vi, x and xvii). Compliance with the pending recommendations (i-v; vii-ix, xi-xvi, xviii and xix) is dealt with below.

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

#### **Recommendation i.**

6. *GRECO recommended (i) swiftly proceeding with the development of a code of conduct for members of the Assembly and ensuring that the future code is made easily accessible to the public; (ii) establishing a suitable mechanism within the Assembly, both to promote the code and raise awareness among its members on the standards expected of them, but also to enforce such standards where necessary.*
7. GRECO recalls that this recommendation was not implemented. Work on the drafting of a code had been initiated but it was interrupted due to political factors (and it would have to re-start on a new basis once the Parliament is operational) and GRECO agreed to assess any promotional and awareness-raising measures concerning such a code at a later stage, once a code is actually adopted.
8. The authorities indicate that on 28 July 2017, a working group was established by the President of the Assembly to work on the implementation of the GRECO recommendations, with the administrative support of the Assembly's staff. This

working group has prepared a draft version of the “Code of ethical behaviour of the members of Parliament” which was subsequently adopted at the 47<sup>th</sup> plenary session of the Assembly held on 11 June 2018, with support from all political groups. The Code comprises 22 articles and six chapters covering **a) general provisions**: scope and goals; **b) basic ethical principles**: objectivity and respect of others, acting responsibly, avoiding personal gains and refusing services/gifts/donations which would influence decisions, mutual respect; **c) rules of conduct**: basic rules, conflicts of interest, prohibition of corruption, receiving of gifts, budget and financial discipline, use of parliamentary funds; **d) violations of the code** with a distinction between misdemeanours and serious infringements, the designation of the Committee for procedural and mandate-immunity affairs as the disciplinary body (which shall adopt the disciplinary rules of procedure), sanctions for misdemeanours (warning) and for serious infringements (public warning), a statute of limitations (six months), **e) declaration of acceptance** to be signed by the MP and **publicity of the code**; **f) preliminary and final provisions** (entering into force etc.). The Code was published in the Official Gazette n°109 of 12 June 2018 and on the website of the Assembly and the Parliamentary Institute is preparing training activities to further promote the Code.

9. GRECO is pleased to see that a code of ethical behaviour was adopted for the parliamentarians. In the context of future reviews, the consistency of the rules would need further adjusting (some provisions overlap on the same subjects), but overall, the first part of the recommendation has thus been implemented.
10. As for the second part of the recommendation, GRECO is pleased to see that the Code provides for an enforcement mechanism; procedural and other implementing rules will need to be adopted by the designated committee and GRECO will be particularly interested in any arrangements made to ensure that the committee is able to perform its tasks in an effective manner. In their latest comments, the authorities indicate that it has already been decided that two experts will assist in the design of such measures. GRECO notes that certain requirements of the Code do not translate into corresponding infringements (for instance as regards gifts and conflicts of interest, see also paragraph 16 hereinafter)<sup>1</sup>, something that will need to be addressed. It also finds that a mere warning as the only applicable sanction (albeit it would be public) is clearly insufficient to deal with the variety of situations which can occur. Regarding measures to promote the code and raising awareness about its content, the situation will need to be re-examined once the announced measures (publication, training) and possibly other initiatives are actually implemented. At this stage, GRECO notes with interest that the Code requires that all parliamentarians shall explicitly commit themselves, by signature, to complying with the code. Such a “best practice” could inspire other GRECO members seeking to complement their own promotional mechanisms and efforts concerning rules of conduct for parliamentarians and other categories of officials. For the time being, this part of the recommendation has been partly implemented.
11. GRECO concludes that recommendation i has been partly implemented.

#### **Recommendation ii.**

12. *GRECO recommended that internal mechanisms and guidance be further developed within the Assembly on the prevention of conflicts of interest and the acceptance of gifts, hospitality and other advantages and that compliance by parliamentarians with these rules be properly monitored.*

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<sup>1</sup> The list of specific infringements does not use the same terminology and logic as the obligations established under the previous articles.

13. GRECO recalls that this recommendation was not implemented. The authorities had indicated that these matters would be dealt with in the code of ethical behaviour for parliamentarians (see also recommendation i). They also referred to a Manual on Integrity and Conflict of Interests produced by the State Commission for the Prevention of Corruption - SCPC of 2013<sup>2</sup>, which predated the adoption of the Evaluation report (December 2013), which had no added value in terms of guidance and was not specifically designed for MPs as it did not emanate from the Parliament.
14. The authorities reiterate that this recommendation is addressed through the Code of ethical behaviour for the members of Parliament, which has now been adopted on 11 June 2018. It refers in particular to conflicts of interest (art. 8)<sup>3</sup>, prohibition of corruption (art.9)<sup>4</sup>, prohibition of receiving gifts (art. 10)<sup>5</sup> and which provides for an enforcement mechanism under the responsibility of the Committee for procedural and mandate-immunity affairs, described under the previous recommendation. In their latest comments, the authorities also reiterate that the above Manual, which was revised in 2016 and is now entitled "Managing conflict of interests – Guidelines", is applicable to all categories of public officials including MPs.
15. GRECO takes note of the above. It recalls the underlying concerns of the Evaluation Report which singled out two important subject matters in the context of the country, namely the management of conflicts of interest and reactions to gifts and other benefits. The adoption of the Code of ethical behaviour is, of course, a positive development, as already highlighted under recommendation i. However, the mere statement in the Code that "an MP is obliged to respect the rules referring to prevention of conflict between the public and the private interest" falls clearly short of any desirable guidance which would define more clearly problematic situations and the conduct expected specifically in the case of an MP's legislative and administrative activities<sup>6</sup> (the rules on sanctions only refer to situations involving a vote). The same can be said as regards the reactions to gifts and other benefits, for instance because MPs are required to comply both with what appears to be a total ban under article 10 and the domestic and international standards on corruption under article 9. Considering the international definitions of bribery, for instance, GRECO recalls that the UNCAC and the Criminal Law Convention on Corruption define bribery by reference to any undue advantage but only in return for an action or inaction. Moreover, MPs may be confronted in their official capacity with so-called protocol gifts and it remains unclear whether these too would have to be refused, or declared and possibly handed over to the Parliament.
16. In terms of guidance and similar mechanisms, GRECO would have expected that definitions, concrete explanations and also examples be given, and this specifically in relation to the MPs activity. The guide on conflicts of interest of the SCPC was

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<sup>2</sup> [http://www.dksk.org.mk/en/images/banners/manual\\_integrity\\_coi\\_f.pdf](http://www.dksk.org.mk/en/images/banners/manual_integrity_coi_f.pdf)

<sup>3</sup> "The MP is obliged to respect the rules referring to prevention of conflict between the public and the private interest."

<sup>4</sup> "The MP, during the execution of his/her function is obliged to respect the rules referring to prohibition of corruption and to avoid any kind of behaviour which, according to the domestic and the international legislation, could be qualified as corruptive behaviour or as deviation of the rules of the Code."

<sup>5</sup> "The MP must not use his/her function in order to achieve property or other benefit for himself/herself or for somebody else, must not request and/or receive gifts and free advantages and must not use his/her function for his/her personal benefit or for the benefit of somebody else. "

<sup>6</sup> For instance:

a) as to the kind of situations where a conflict could occur for an MP: making certain decisions as regards the use of parliamentary resources, acting as rapporteur / chairing a committee or meeting on certain subjects, presenting motions or voting in certain circumstances etc.;

b) as to the kind of reactions expected in such circumstances: disclosing a private interest, seeking clearance, withdrawing temporarily or completely from a function, abstaining from a decision etc., playing otherwise an active role on certain subjects

revised in 2016, which is of course a positive development. But the guide is more a general framework for the design of rules by the respective public bodies. Turning to monitoring and compliance, as pointed out earlier, GRECO is of course pleased to see that the Code contemplates a specific supervision mechanism. However, the lists of violations of the Code under chapter 4 (articles 13 and 14 on misdemeanours and serious infringements) deal with breaches of the rules on conflicts of interest only in relation to situations involving a vote. Violations of the rules on gifts are not clearly covered.

17. Overall, given the many important gaps which still need to be filled, GRECO cannot conclude that this recommendation has been implemented, even partly.
18. GRECO concludes that recommendation ii remains not implemented.

### **Recommendation iii.**

19. *GRECO recommended introducing rules on how Members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process.*
20. GRECO recalls that this recommendation was considered as not implemented. As it indicated in the first Compliance Report "the Evaluation Report had identified serious weaknesses as regards the current arrangements on lobbying based inter alia on the Law on Lobbying of 2011. The country had announced its intention to proceed with a number of changes (introducing a Code for lobbyists, amending the above Law, among others) and GRECO had pointed to the need to combine these initiatives "with a greater transparency on MPs' contacts with lobbyists and other third parties in connection with on-going legislative proposals outside the meetings of the Assembly and its commissions". GRECO welcomed that discussions are being held and that an expert analysis was done [in September 2016, in the context of an EU funded IPA Twinning Project of 2010]. But it was clear that the process for the implementation of the present recommendation was only at a very early stage.
21. The authorities refer again to the Expert Report on the Law on Lobbying of September 2016, which analyses the Law on Lobbying and formulates suggestions for improvement. It also contains an Action Plan for measures and steps that can be considered by the State Commission for Prevention of Corruption, in order to raise public awareness about lobbying and improving the public perception of lobbying. This document would be taken into consideration in the future work in this area.
22. They point out to other information which appears irrelevant in the present context (i.e. that the working body of the Parliament can invite and solicit opinions from scientific, professional and public employees and representatives of the municipalities, of the City of Skopje, the public enterprises, trade unions and other organisations, institutions and associations).
23. GRECO takes note of the absence of any new development or let alone concrete proposals to implement this recommendation, which pursues the specific objective of providing a set of rules for the conduct of MPs when they have contacts with lobbyists and other third parties<sup>7</sup>. GRECO underlines that the present

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<sup>7</sup> For instance complying with any established modalities of contacts, checking the identity and possible credentials of the person or organisation concerned and cross-checking with the information contained in any existing registers, understanding what interests s/he represents and declining contacts when certain conditions are not met (general diligence), declaring such contacts (transparency), how to deal with certain situations such as attending social/scientific/awareness-raising events organised by the lobbyist or third party (e.g. accepting or not remunerated presentations), how to deal with offers of support for parliamentary / political work (assistants and facilities / offices provided free of charge, drafting of technical texts, studies and legislative proposals or amendments etc.

recommendation also refers to relations with other third parties who may not be professional lobbyists (advocacy bodies, foreign authorities, clubs representing national or business interests). GRECO urges the authorities to pursue their efforts to take full account of the specific content of this recommendation and to implement it.

24. GRECO concludes that recommendation iii remains not implemented.

**Recommendation iv.**

25. *GRECO recommended ensuring (i) that sanctions are provided in the relevant laws for all infringements they contain and (ii) that appropriate enforcement action is taken in all cases of misconduct by Members of Parliament.*
26. GRECO recalls that this recommendation was not implemented. Some work was conducted by a specific anti-corruption working group established in August 2015<sup>8</sup> in the framework of the EU-supported IPA 2010 twinning project "Support for efficient prevention and fight against corruption", in order to analyse the legal and institutional framework, including the Law on prevention of corruption (LPC) and the Law on prevention of conflict of interests (LPCI). But no tangible pertinent outcome had been reported to address the concerns expressed in the Evaluation Report.
27. The authorities take the view that the first part of this recommendation is already addressed by the Law on Prevention of Corruption, the Law on the Prevention of Conflict of Interest, the Criminal Code, which all contain sanctions for the various violations of the rules. As for the second part of the recommendation, the authorities underline that the State Commission for Prevention of Corruption (SCPC) has taken measures (which are in its competence) in all cases where there were violations committed by MPs:

<b>Actions undertaken by the SCPC in the period of 2013-2018 as regards assets</b>
<p><b>A. Cases referred to the competent courts for initiating a misdemeanour procedure:</b></p> <p>1. 23.07.2014: case concerning 5 MPs for failure to submit an asset declaration as required by the law (within deadlines, after termination of the mandate, with a detailed description of property and its origin and failure to comply with the duty to declare any re-election): misdemeanour according to article 33, par. 2 and 3 LPC, punishable in accordance with article 63</p> <p>2. 25.07.2017: case concerning 1 MP: asset declaration showed that part of the property was not declared: misdemeanour according to art. 33, par. 1 LPC, punishable in accordance with article 63</p>
<p><b>B. Cases referred to the Public Revenue Office for initiating a procedure for a review of property</b></p> <p>1. 04.03.2014: case concerning one newly elected MP: asset declaration showed incomplete data</p> <p>2. 23.07.2014: case concerning 3 former MPs: no declaration filed within the deadlines after termination of the mandate: article 33 paragraph 2 of the Law on Prevention of Corruption.</p> <p>3. 28.01.2015: case concerning 1 newly elected MP: asset declaration showed incorrect data.</p>

28. GRECO takes note of the above information, which shows that the work initiated in 2015 on the implementation of the first part of the recommendation has stalled. GRECO recalls that the Evaluation Report (especially its paragraphs 76, 77, 80) had pointed to a series of gaps and anomalies as regards the sanctions provided for instance in the Law on the Prevention of Conflicts of Interest (LPCI) and in the

<sup>8</sup> Responsible for analysing and preparing amendments to the above-mentioned laws, the Group was established by the Ministry of Justice, chaired by the SCPC and composed of representatives from institutions dealing with anti-corruption polices. It was meant to deal with all relevant recommendations issued by external experts hired within the IPA project, by the European Commission (EU pre-accession process) and GRECO.

Criminal Code (incidentally, such gaps are also observed in respect of the code of conduct discussed earlier). The country needs to take more determined action to address these concerns as otherwise the elaboration of rules will become a mere “window-dressing” exercise.

29. As for the second part of the recommendation, GRECO appreciates the information submitted concerning the SCPC’s action in respect of MPs. But the information made available remains insufficient to conclude that there has been any meaningful progress since the evaluation. The present recommendation refers to the need for effective action under the Law on the Prevention of Conflict of Interest but also under the Law on Prevention of Corruption and under the Criminal Code. The information submitted concerns only the specific area of asset declarations and no consistent and convincing data is available on the final outcome of proceedings and on the penalties actually applied relative to the sanctions contemplated by the rules. Data submitted by the authorities in their latest comments suggests that enforcement measures are weak and not dissuasive enough<sup>9</sup>. GRECO recalls that the Evaluation Report had also observed that certain sanctions are not dissuasive enough or that those imposed in practice are sometimes significantly lower than what the law prescribes. No action has been taken to address these concerns either. GRECO is also mindful of recent events and controversies concerning the SCPC, and of certain conclusions of the report on the European Neighbourhood Policy and Enlargement Negotiations concerning the SCPC, released in April 2018 – see the overall conclusion at the end of the present report.
30. GRECO concludes that recommendation iv remains not implemented.

*Corruption prevention in respect of judges*

**Recommendation v.**

31. *GRECO recommended that, in order to strengthen the independence of the judiciary from undue political influence, the ex officio membership of the Minister of Justice in the Judicial Council be abolished.*
32. GRECO recalls that this recommendation was partly implemented. Constitutional amendments had been prepared and were in Parliament, to modify the composition of the Judicial Council in a way that it would not include the Minister of Justice anymore. The Council would be composed of 15 members: 10 members elected by the judges from among their ranks, 3 members elected by the Parliament and 2 members proposed by the President of the Republic and subsequently elected by the Parliament (these would be selected among the university professors of law, lawyers and other distinguished jurists). Similar changes were in the drafting stage concerning the law on the Judicial Council, with a view to excluding the Minister of justice and the President of the Supreme Court as members of the Judicial Council.
33. The authorities indicate that although there are no more plans at the moment, to revise the Constitution, in practice this recommendation has been fully implemented since the Ministers of Justice of the last two governments did not participate in the work of the Judicial Council. For instance, in the period 2016-2017, the Judicial Council held a total of 54 sessions and the Minister of Justice did not participate in any of the meetings. Also, in December 2017, the Parliament adopted the Law Amending the Law on the Judicial Council (Official Gazette No. 197/2017), according to which the Minister of Justice was deprived of voting rights.

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<sup>9</sup> In respect of cases filed in 2014, as a result of cases filed to the courts (see first row of the above table), one case was terminated with a settlement procedure, 3 cases led to fines of EUR 500 and 700 (equivalent value). As for cases sent to the tax authorities (second row in the above table), the procedure was stopped in 3 cases (no evidence of an offence) and no information is available regarding 2 further cases.

34. GRECO takes note of the above. It regrets the fact that the intended constitutional amendments have been abandoned and that there are thus no more prospects of removing the participation of the Minister of Justice from the Judicial Council. The authorities now refer to the recent adoption of legislation which has removed his/her right to vote. In GRECO's views, this does not fundamentally change the situation and the Evaluation Report (para. 100) had already noted that the Minister lost his voting right concerning the appointment of judges<sup>10</sup>. In GRECO's views, a risk of political influence always exists without formal voting rights or even formal attendance of the Minister in person at meetings (see also paragraph 118 of the Report which refers to actual problems observed in practice). Given that there are no more concrete projects aimed at implementing the present recommendation, GRECO cannot maintain its earlier assessment.

35. GRECO concludes that recommendation v has not been implemented.

**Recommendation vii.**

36. *GRECO recommended that appropriate measures be taken with a view to strengthening the independence, impartiality and integrity of lay judges, inter alia, by introducing specific guidelines and training on questions of ethics, expected conduct, corruption prevention and conflicts of interest and related matters.*

37. GRECO recalls that this recommendation had been considered as partly implemented. Efforts had been made in the period 2014-2016 to also involve the lay judges in the training and awareness-raising events on ethics, conflicts of interest, anti-corruption measures and the like organised for judges and prosecutors. In 2014 and 2015, five seminars were organised specifically for lay judges on these subjects. The Law on Courts was being amended to raise the conditions to become a lay judge (including the passing of integrity tests) and it was planned to amend the Code of judicial ethics so that it also applies to them.

38. The authorities now merely refer to training activities, stating that the Academy for Judges and Public Prosecutors has a Training Program for lay-judges and that the subject "Ethics" is included in a special module, with the following content: a) organisation and competence of the courts – in general, b) standards of an independent judiciary, c) ethics and free judgement, d) Conflict of interests, e) anti-corruption measures. In the period of February 2017 to October 2017, 6 two-day specialized trainings for newly elected lay-judges were organised for a total of 183 attendees.

39. GRECO is pleased to see that training and awareness-raising efforts are being pursued in respect of lay judges and that there is at present even a specific training programme devoted to them within the judicial academy. It would appear that the other intended improvements, which GRECO had assessed positively, have now been abandoned raising of the conditions to become a lay judge, extension of the code of judicial ethics to lay judges). This is regrettable.

40. GRECO concludes that recommendation vii remains partly implemented.

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<sup>10</sup> In its November 2017 report (para.38), the Senior Experts' Group on systemic Rule of Law issues observed in general terms that the Minister and the President of the Supreme Court have no voting rights, see [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14\\_seq\\_report\\_on\\_systemic\\_rol\\_issues\\_for\\_publication.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14_seq_report_on_systemic_rol_issues_for_publication.pdf)



### **Recommendation viii.**

41. *GRECO recommended that decisions of the Judicial Council on the promotion of judges be accompanied by a statement of reasons and be subject to judicial review.*
42. GRECO recalls that this recommendation was partly implemented. The Judicial Council had decided that as from 2015 all its decisions on appointments and promotions were to be motivated and a draft amendment to the Constitution was prepared and sent to Parliament to introduce a mechanism of appeal against such decisions.
43. The authorities now indicate that the initial project to involve the Constitutional Court in judicial reviews of decisions on promotions was reconsidered, thus making a constitutional amendment unnecessary. Instead, in December 2017, the Parliament adopted the Law Amending the Law on the Judicial Council (Official Gazette of Republic of Macedonia No. 197/2017). In accordance with Article 3 of this Law: "Every member of the Council with a right to vote shall be obliged publicly, at the session of the Council, to explain his/her decision **on the election of a judge**. The Council is obliged to inform each candidate in writing about the decision for election of a judge and s/he may appeal to the Supreme Court, within eight days of receiving the notification".
44. Also, pursuant to Article 5 of this Law: "Each member of the Council with a right to vote shall be obliged publicly at a session of the Council to elaborate his/her decision to elect a president of a court. The Council is obliged to inform each candidate in writing about the decision to **elect a president of a court**. A candidate who has not been chosen has a right to appeal to the Supreme Court of the Republic of Macedonia within eight days of receiving the notification. "
45. GRECO takes note of the above. It is pleased to see that in addition to the motivation of all decisions of the Judicial Council on appointments and promotions introduced already in 2015, appeal possibilities were introduced by amendments passed in December 2017 to the Law on the Judicial Council (as constitutional amendments finally turned out to be unnecessary). The present recommendation has now been fully implemented.
46. GRECO concludes that recommendation viii has been implemented satisfactorily

### **Recommendation ix.**

47. *GRECO recommended that, with due regard to the principle of judicial independence, the system of appraisal of judges' performance be reviewed to (i) introduce more qualitative criteria and (ii) remove any automatic lowering of a judge's grade resulting from the reversal of his/her decisions.*
48. GRECO recalls that this recommendation was not implemented. In the framework of an EU-IPA (Instrument for Pre-Accession) project for the judiciary, an analysis was going on with comparative foreign experience based on Opinion 17 of the Consultative Council of European Judges <sup>11</sup> and that all the possible options were being considered to address the present recommendation. The authorities had also referred to draft amendments to the Law on courts but their pertinence for the present recommendation remained unclear.

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<sup>11</sup> Note by the Secretariat: for further information see [http://www.coe.int/t/dqhl/cooperation/ccje/textes/avis\\_EN.asp?](http://www.coe.int/t/dqhl/cooperation/ccje/textes/avis_EN.asp?)

49. The authorities indicate that amendments to the Law on the Judicial Council have been prepared and subsequently adopted in May 2018 (Official Gazette n° 83 of 8 May 2018) to revise completely the appraisal system for judges, which would put particular emphasis on qualitative criteria:
- the amendments provide for the following **quantitative criteria**: a) the number of annulled decisions due to serious procedural violations relative to the total number of resolved cases; b) quality in conducting court proceedings (compliance with the legal deadlines for undertaking procedural actions and for preparing and publishing the judicial decisions, the duration of court proceedings and level of compliance with the principle of a trial within reasonable time); c) the number of changed decisions in relation to the total number of resolved standard decisions, d) the level of specialisation in the profession; e) the number of grounded complaints and petitions of the parties for the work of the judge and the number of grounded requests for exemption at the request of a party; f) disciplinary measures imposed. The new rules provide that the assessments will use the computerised court management system, which allows to retrieve figures on certain decisions / remedies / invalidations / procedural violations, on the level of activity in the management of the case and on compliance of all procedural steps with the deadlines.
  - Regarding the **qualitative criteria**, the amendments list the following: a) completion of the work programme, b) consistency in the application of the Rules of Procedure of the Court (annual work schedule, exemption of judges, reallocation of cases, etc.); c) functioning of the automated case management system; d) quality of decisions performed in the court administration; e) Public relations and transparency in the work. The appraisals shall be based on the Annual Report on the respective court workload, after it has been reviewed at a general session of the Supreme Court, on the Working Programme of the President of the court, as well as on the results of control reports carried out by the higher courts, the Judicial Council and the Ministry of Justice.
50. In the final overall assessment, the weight of the notations for qualitative criteria will represent 60% (quantitative criteria: 40%) (articles 107 and 108 of the Law on the Judicial Council). The working hours will also be taken into account. The amended law also provides for a specific list of criteria for court presidents, largely based on the above.
51. GRECO is pleased to see that the Law on the Judicial Council was amended to review the appraisal system and to put less emphasis on the quantitative aspects of a judge's performance. This part of the recommendation has thus been addressed. As for the second part of the recommendation, the authorities explain in their latest comments that the way the system is now designed, with a focus on quantitative aspects, suppresses de facto the automatic lowering of a grade as a result of the reversal of his/her decisions.
52. GRECO concludes that recommendation ix has been implemented satisfactorily.

#### **Recommendation xi.**

53. *GRECO recommended that rules and guidance be developed for judges on the acceptance of gifts, hospitality and other advantages and that compliance with these rules be properly monitored.*

54. GRECO recalls that this recommendation was partly implemented. The new rules on gifts introduced in the Code of Judicial Ethics of 2014 were considered to have no real added value compared to the content of the previous Code of 2006 and the objective of the present recommendation was to address gaps identified in the Evaluation Report (paragraphs 145-147) concerning especially contradictions between the various prohibitions and exceptions in place, the lack of precision of the Law on Use and Disposal of Objects of State Bodies of 2005 (amended last in 2015), the modalities for the reporting of gifts, the need to clarify the situation for non-material benefits, the context in which gifts are offered, and the proper monitoring of compliance. There were some plans to introduce further guidelines to complement the code on these subject matters and GRECO gave some credit to the existing training efforts to present and explain to judges and prosecutors the various restrictions already in place concerning gifts and other benefits.
55. The authorities now indicate that in March 2016, within the IPA project "Further support for independent, responsible, professional and efficient judiciary and promotion of the probation service and alternative sanctions" (Activity 1.4.1), a "Practical Guide to the Code of Judicial Ethics" was prepared. Chapter 2 of the Guide dated February/March 2016 contains explanations and comments regarding all the principles for ethical behaviour of judges, as set out in the Code of Judicial Ethics.
56. The authorities submit that the monitoring of compliance will be the responsibility of the Advisory Body for Judicial Ethics, which is a new body of the Macedonian Judges Association, as stipulated in the Code of Judicial Ethics. In January 2018, six of the seven members were elected by the Steering Committee of the Association of Judges; the seventh member is proposed by the Supreme Court and appointed by the Steering Committee (the designation of this seventh member is pending). In November 2017, the Association of Judges signed an Agreement with the Embassy of the Kingdom of the Netherlands, in order to support the above body. The activities envisaged in this project, beginning in December 2017, focus directly on establishing the body, supporting its initial development, preparing documents for its functioning as well as raising public awareness among judges on the Code of Judicial Ethics and competencies of the advisory body. At the time of adoption of the present report, the Advisory Body has met twice and it has adopted its rules of procedure (dated 23 May 2018). The newly appointed members will be trained in their new functions in September 2018.
57. GRECO takes note of the above. As regards rules and guidance, in the light of an English version of the "Practical Guide to the Code of Judicial Ethics" kindly provided by the authorities, it cannot be considered that the underlying concerns of the Evaluation Report – briefly recalled in paragraph 54 above – are being addressed. The Guide contains two brief references to gifts, which basically reiterate in different terms what the existing rules already state and refer back to these, for instance by recalling the need to comply with value thresholds which might exist. The Guide does not provide examples, concrete situations, explanations etc., for instance on what the concept of gifts entails, nor does it refer to hospitality and other possible advantages in that context. As for the subject of proper monitoring, the authorities refer to the fact that this is the responsibility of the newly created Advisory Body for Judicial Ethics, which is being set up with the cooperation of a foreign country and which is meant to elaborate policy documents and guidance. GRECO will need to reassess the actual role and activities of the newly created body when more specific information becomes available. According to its rules of procedure, and being a body of the association of judges, its function is primarily to advise whereas this recommendation calls specifically for the proper monitoring of compliance with the rules on gifts.

58. GRECO concludes that recommendation xi remains partly implemented.

**Recommendation xii.**

59. *GRECO recommended (i) that disciplinary infringements applicable to judges be clearly defined and that the range of sanctions be extended to ensure better proportionality and (ii) that dismissal of a judge only be possible for the most serious cases of misconduct, ensuring, in particular, that the possibility to dismiss a judge solely in case one of his/her decisions is found to be in violation of the right to a trial within a reasonable time be abolished.*
60. GRECO recalls that this recommendation was partly implemented. The authorities had mentioned the existence of a new draft Law on Courts, endorsed by the Government in June 2016 at the time of adoption of the first Compliance Report. Reportedly, it aimed at introducing i.a. new, precise and predictable disciplinary regulations and definitions of sanctions, with a broader range of sanctions (written reprimand, compulsory participation in trainings, temporary transfer to another court of the same or lower instance, decrease of remuneration, exclusion from promotions for a period up to three years, dismissal). It also contemplated different procedures for a new categorisation of disciplinary violations (minor, basic and serious), with specific sanctions in each case the dismissal of a judge being possible only for the most serious disciplinary violations. These appeared to address the first part of the recommendation and to some extent the second part.
61. The authorities now refer to the recent adoption – in May 2018 – of another law amending the Law on Courts (Official Gazette n° 83 of 8 May 2018), different from the previous draft approved by the Government in June 2016. As regards the first part of the recommendation, the amended Law on Courts provides for a series of serious and less serious violations which are to be established following a disciplinary procedure. The range of disciplinary measures was extended by adding the mandatory attendance of professional training.
62. As regards the second part of the recommendation, the authorities point out that the amended legislation contemplates the dismissal of judges only for the most severe disciplinary offences, following a disciplinary procedure. The grounds are listed under article 76 of the amended Law on Courts, namely: 1) involvement in party and political activities; 2) interfering with the supervision of judicial work by the higher court; 3) taking advantage of one's office to pursue personal interests; 4) severe violation of the public order and peace in a way which affects the reputation of the judiciary (to be determined by a final court decision, e.g. participating in a fight or quarrel); 5) two consecutive unsatisfactory appraisals; 6) holding another public office or performing other work, profession or activity incompatible with judicial functions; 7) accepting gifts and other benefits in relation with the exercise of judicial functions; 8) failing to take into account the content of final judgements of the European Court of Human Rights; 9) disclosing confidential information.
63. GRECO takes note of the above amendments of May 2018 to the Law on courts, which reform the disciplinary mechanisms. As regards the first part of the recommendation, the amended Law on Courts (a copy of which was provided by the authorities) still provides for a series of offences concerning: a) unprofessional and neglectful exercise of duties (article 75); b) serious disciplinary offences (article 76), to be established in the context of by a disciplinary proceeding), c) disciplinary violations (article 77) such as violations of the rules of ethics, disturbance of the Court's work, failure to attend training, unjustified absences, failure to wear the judges's robe etc. The sanctions for offences under articles 75 and 76 are the dismissal from office (according to article 74), whereas for other violations, the

penalties are now: written reprimand, public reprimand, decrease in salary and the newly introduced mandatory training.

64. Bearing in mind the concerns expressed in the Evaluation Report (paragraph 168), GRECO notes that excessively vague offences such as the “unprofessional, untimely or inattentive exercise of the judicial office” (an offence used frequently in practice) can still be found in article 75, which now comprises 11 elements (10 at the time of the on-site visit). Moreover, as regards the second part of the recommendation, article 75 still provides for the type of situations that the recommendation calls to abolish (decision found in violation of articles 5 and 6 of the European Convention on Human Rights). Overall, whilst some improvements may have taken place as regards the range of offences and sanctions and the automatic sanctions have been abolished, some important underlying concerns of the two parts of the present recommendation have actually not been addressed.
65. GRECO concludes that recommendation xii remains partly implemented.

**Recommendation xiii.**

66. *GRECO recommended that the disciplinary proceedings applicable to judges be reviewed so that (i) infringements are subject to one single disciplinary procedure and, (ii) with due regard to the principle of judicial independence, the authority to initiate proceedings and to investigate be separated from the authority to decide on sanctions.*
67. GRECO recalls that this recommendation was partly implemented. No follow-up action had been taken in respect of the first part of the recommendation and as regards the second part, a reform of February 2015 has remedied the problematic situation identified in the Evaluation Report concerning the concentration of all disciplinary responsibilities in the sole Judicial Council and potentially in the hands of the same persons (a new *Law on the Council for the determination of facts and for the initiation of a procedure to determine a judge’s liability*, published on 12.02.2015 establishes the “Council for the determination of facts and the initiation of procedures for the liability of judges”, a new independent body).
68. The authorities indicate that the first part of the recommendation was implemented through amendments to the Law on the Judicial Council, which were adopted in May 2018 (official gazette n)83/2018). Article 54 of the amended Law provides for a single disciplinary procedure. As regards the second part, the new special body mentioned above – the *Council for the determination of facts and for the initiation of a procedure to determine a judge’s liability*, which was created in February 2015, was finally abolished (the Venice Commission recommended its suppression given in particular the current central role of the Judicial Council, or at the very least to review its composition<sup>12</sup>). However, the Law amending the Law on Judicial Council – JC), adopted in December 2017, which returned all its competencies to the JC, also amended the procedure to dissociate the respective functions of those involved in proceedings, i.e. JC members who initiate the procedure, as well as those participating in the investigation, are not allowed anymore to vote in the subsequent decision on a judge’s disciplinary liability.
69. GRECO welcomes the suppression of the dual disciplinary proceedings in May 2018, in line with the first part of the recommendation. As regards the second part, it is pleased to see that despite the annulment of the reform of 2015, a way was found in December 2017 to avoid that all disciplinary procedural steps are all in the hands of the same members of the Judicial Council. This part thus remains implemented.

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<sup>12</sup> See [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)042-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)042-e) , para. 113, third bullet

70. GRECO concludes that recommendation xiii has been implemented satisfactorily.

*Corruption prevention in respect of prosecutors*

**Recommendation xiv.**

71. *GRECO recommended that a set of clear standards/code of professional conduct, accompanied by explanatory comments and/or practical examples, be established which will apply to all prosecutors.*
72. GRECO recalls that this recommendation was partly implemented. The updating of the code of ethics for prosecutors of 2004, which was in progress at the time of the adoption of the Evaluation Report, was completed with the adoption of a new Code of ethics for prosecutors in December 2014, which was made applicable to all prosecutors. GRECO recalls that the revision was meant to include new anti-corruption provisions including in relation to conflicts of interest, accessory activities, gifts etc. It was also intended to serve in future as a basis for disciplinary action. GRECO noted that although the new version (10 pages and 20 articles) was slightly longer and more detailed than the previous (6 pages and 13 articles), it remained fairly general and it did not contain explanatory comments and concrete practical examples which would support its implementation in daily practice. GRECO also pointed out that such a Code needs to be conceived as a living document which can be updated as needed and it expected more determined measures to fully implement the present recommendation.
73. The authorities now indicate that the above code of ethics of 2004 was adopted by the Assembly of the Association of Public Prosecutors; it applies to all members of the Association, Public Prosecutors and Public Prosecutors' Officers. However, in accordance with the above recommendation, the Public Prosecutor of the Republic of Macedonia, in December 2014, adopted the Code of Ethics of the Public Prosecutors (subsequently published in the "Official Gazette of the Republic of Macedonia" No.194 / 14). This text was prepared by the public prosecutors, members of the Association of Public Prosecutors of the Republic of Macedonia, with the financial support of the OSCE. It also applies to all prosecutors of the country.
74. The authorities report that members of the Association of Public Prosecutors of the Republic of Macedonia, one public prosecutor and two administrative officers (managers), again with the financial support of the OSCE, produced a set of *Guidelines for the Practical Application of the Code of Ethics for Public Prosecutors and its proposed amendments*". These were officially adopted by the General Prosecutor on 30 January 2018.; the Ethical Council and the Public Prosecutor are expected in future to issue relevant interpretations of the content of the Code. One such opinion was already released recently.
75. GRECO welcomes the recent adoption of guidelines for the practical implementation of the code of ethics for the prosecutors. This is all the more important since the added value of the revised code of 2014 was limited. However, the content of these guidelines diverges from the two versions of the code that GRECO has examined up until now, and GRECO was provided with contradictory information as to which prosecutors the Codes apply to (all prosecutors or only the members of the Prosecutors' Association). The 2004 version is still the only code appearing on the Association's website (<https://zjorm.org.mk/documentstax/kodeks/>) together with the above-mentioned guidelines. It would also appear that further proposals have been made in those guidelines to update the ethical rules and to support their

implementation<sup>13</sup>. To conclude, the objectives of the present recommendation which are to provide for clear standards of conduct, accompanied by explanatory comments are not entirely fulfilled.

76. GRECO concludes that recommendation xiv remains partly implemented.

**Recommendation xv.**

77. *GRECO recommended that rules and guidance be developed for prosecutors on the acceptance of gifts, hospitality and other advantages and that compliance with these rules be properly monitored.*

78. GRECO recalls that this recommendation was categorised as partly implemented. The new code of ethics of 2014 contained more elaborate provisions on gifts in general, with a prohibition where it could prejudice the impartiality and objectivity (article 2 principle 4) and specifically in relation to parties to proceedings which implied a strict prohibition of any gifts and the notification in writing to the superior where the offer cannot be declined (article 13). The Code also provided for a supervisory mechanism under the responsibility of an Ethical Council. The added value of the new rules however, remained limited in the absence of practical guidance and certain aspects were still not addressed at all (e.g. hospitality). The situation also needed to be re-assessed once additional information becomes available about the actual responsibilities and work of the above Council<sup>14</sup>.

79. The authorities now refer to the Guidelines for the Practical Application of the "Code of Ethics for Public Prosecutors and its proposed amendments", which were adopted in January 2018 (see recommendation xiv) and which contain rules and standards for the acceptance of gifts, hospitality and other advantages. Namely, the guidelines make a distinction between protocol gifts (material/non-material), and it provides for a maximum value and a clear procedure for their recording. It also clearly states that a public prosecutor, under no circumstance, may accept gifts, hospitality or other advantages from the parties and other participants in the criminal procedure, or from any other person in the performance of their function.

80. The authorities also point out that the Public Prosecutor established an Ethical Council, chaired by a President who also selects the members of the Council. The Ethical Council adopted on 30 January 2018 a set of "Rules for the determination of violations of the Ethical Code" as well as Rules of Procedure.

81. GRECO takes note of the above, which does not clarify what the situation actually is when it comes to the applicable ethical standards in relation to gifts (those of the code of 2004 or those of the code of 2014). Moreover, pending a more in-depth analysis of the content of the Guidelines for the Practical Application of the Ethical Code of Public Prosecutors, adopted in January 2018, GRECO is not convinced that they constitute the kind of practical guidance which this recommendation is aiming at, to guide the behaviour of prosecutors and to explain how to interpret and apply by themselves the rules on gifts in daily practice (with definitions, examples of situations etc.). In the light of the information given by the authorities, these guidelines appear, in respect of gifts, to actually add up to the standards (instead of interpreting them), which could make the situation more complex.

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<sup>13</sup> See also <http://fighting-occ.mk/workshop-for-developing-guidelines-for-practical-application-of-the-public-prosecutors-code-of-ethics/>

<sup>14</sup> During the plenary discussion of the present report, the authorities point out that the members of the council have been appointed in May 2018 and that some cases have already been submitted to this new body.

82. As for the Ethical Council, GRECO is looking forward to further information about its concrete function.
83. GRECO concludes that recommendation xv remains partly implemented.

**Recommendation xvi.**

84. *GRECO recommended that the disciplinary regime applicable to prosecutors be reviewed so that (i) infringements are clearly defined and that (ii) the range of available sanctions be extended to ensure better proportionality ensuring, in particular, that dismissal of a prosecutor is only possible for the most serious cases of misconduct.*
85. GRECO recalls that this recommendation was not implemented. The authorities had indicated that a new draft Law on public prosecution would address the above matters by providing for clear grounds for the disciplinary liability of public prosecutors and by establishing an entirely new disciplinary procedure. But work was at a very early stage.
86. The authorities now indicate that a working group was established by the Ministry of Justice in order to prepare the new draft Law on Public Prosecution. According to the Strategy for the reform of the judicial sector 2017 - 2022 and the Action Plan (<http://www.pravda.gov.mk/resursi.asp?lang=eng&id=14>), this recommendation is an important objective, with a deadline for implementation by the end of June 2018. In their latest information, the authorities indicate that the working group has not completed its work and that the adoption of the future draft is expected in October 2018.
87. GRECO is pleased that this recommendation has become a priority of reform and that a new draft Law on public prosecution is being prepared. It would appear that the process is still at an early stage and GRECO can still not consider that the present recommendation has been implemented even partly.
88. GRECO concludes that recommendation xvi has not been implemented.

*Corruption prevention in respect of all categories*

**Recommendation xviii.**

89. *GRECO recommended that appropriate legal, institutional and operational measures be put in place to ensure a more in-depth scrutiny of statements of interest and asset declarations submitted by Members of Parliament, judges and prosecutors, in particular by streamlining the verification process under the aegis of the State Commission for the Prevention of Corruption.*
90. GRECO recalls that this recommendation was considered partly implemented. Measures were progressively taken to increase the capacity of the State Commission for the Prevention of Corruption (SCPC) to scrutinise the declarations of assets and interests, including through the creation of standardised formats for the submission of information (done in July 2015), the creation of an official registry of officials required to file declarations and the progressive introduction of specific IT solutions and interconnectivity with other State agencies (to become fully operational by July 2016). GRECO recalled the concrete concerns of the Evaluation Report which needed to be addressed as well, including as regards the coherence / articulation of supervision within the SCPC (which was shared inconsistently between two small different departments) and between the SCPC and the Public Revenue Office (which also checks declarations).



91. The authorities now indicate that the register of elected and appointed persons became operational in July 2016, followed by a period during which the heads and designated contact persons started fulfilling their obligations pertaining to the implementation of the declaration system. The SCPC informed the institutions and bodies of subjected persons about the need for consistent and effective implementation of the legal obligations and reminding them about the applicable fines including for the body and person responsible for notifying the SCPC about any officials concerned by declaratory obligations. The SCPC is already using the data from the register in the procedures for checking data concerning asset declarations and for initiating misdemeanour procedures before the competent court, as well as in procedures for examining the status of property with the Public Revenue Office. Currently, the register includes the forms of 3207 officials in exercise as well as 782 forms of former officials. Within the framework of the IPA 2010 twinning project "Support for efficient prevention and fight against corruption", a software solution for electronic filing and submission of asset declarations was prepared.
92. GRECO takes note of the information above, which shows that the SCPC is still working on the implementation of basic requirements: ensuring that all obliged persons are listed, providing for the electronic submission of data as regards assets etc. GRECO will need to re-examine the situation once the reform process is more advanced and an overview of actual operational improvements is available (and properly documented) as regards the various types of declarations concerned and the streamlining of the verification process. The information provided under recommendation xix hereinafter (concerning the SCPC's activity in 2016) does not fundamentally change the above picture. GRECO is also mindful of the recent events and controversies concerning the SCPC, and of the findings of the report on the European Neighbourhood Policy And Enlargement Negotiations concerning the SCPC, released in April 2018 – see the overall conclusion of the present report hereinafter.
93. GRECO concludes that recommendation xviii remains partly implemented.

**Recommendation xix.**

94. *GRECO recommended (i) that the financial and personnel resources of the State Commission for the Prevention of Corruption in the areas of conflicts of interest, lobbying and asset declarations be increased as a matter of priority and that (ii) the Commission demonstrate a more balanced and proactive approach in these areas.*
95. GRECO recalls that this recommendation was partly implemented. In 2014 and 2015, the financial and staff resources of the State commission for the prevention of corruption (SCPC), including their salaries, were increased and GRECO overall considered the first part implemented. As for the second part of the recommendation, no meaningful, pertinent and/or tangible improvements were reported to address specifically the underlying concerns of the present recommendation concerning in particular the lack of proactivity and prioritisation of the SCPC in its work, the need to demonstrate an impartial (more "balanced") approach in its work and measures against risks of interference in the SCPC's work – in particular due to the absence of criteria for the dismissal and appointment of SCPC members.
96. The authorities now provide information taken from the SCPC's Annual Report for 2016:
- a) as regards **conflict of interests**,

- in 2016, a total of 78 new cases were initiated (57 of which were completed) upon reports and requests for opinions submitted by officials, their superiors, or officials heading state bodies, as well as by anonymous complainants and other interested persons, and upon the SCPC's own findings. Out of the 81 files pending from previous years, 53 cases were completed. The SCPC issued a total of 20 public warnings to officials who were in a situation of conflict of interests due to violations of the provisions of the Law on Prevention of Conflict of interests and due to the fact that they did not act upon the indications of the SCPC i.e. did not give up the performance of disputed parallel functions. The SCPC initiated 12 procedures for dismissal from the exercise of public functions (based on violations of the Law on Prevention of Conflicts of Interest and of the Law on Prevention of Corruption) and who made a personal interest prevail over the public interest. Six of these files refer to officials who were given a warning but still failed to take action to solve a conflict by giving up the functions exerted in parallel. The other cases involve elected / appointed persons who employed persons close to them (three directors of schools and the dean of a faculty, the director of a public health institution, the director of an Institute).
- in 2016, a total of 627 declarations of interest were received (193 from local self-government officials, 58 from officials in the judiciary, 376 from State officials). Out of these, 39 officials acted contrary to the provisions of the Law on Prevention of Conflict of Interests. These persons were asked by the SCPC to eliminate the violation, and in 16 cases the persons acted accordingly.
- to date (since 2009), the SCPC has collected a total of 7 803 statements. In 2016, the SCPC filed a case for misdemeanours against three officials before the competent court (failure to submit a declaration of interests). In total, the SCPC has acted upon a total of 201 cases of conflict of interests, out of which 126 cases have been solved.

b) as regards **asset declarations,**

- in 2016, the SCPC has received 676 declarations of newly elected or appointed officials and 315 post-employment declarations. 362 additional declarations concerned a change in the officials' property situation. The SCPC continuously processes such declarations and updates regularly the registered data on assets. In 2016, the SCPC published the 4820 asset declarations of acting officials on its website ([www.dksk.org.mk](http://www.dksk.org.mk)) and all the asset declarations submitted since 2003 have been entered into the database.
- in 2016, the SCPC filed with the competent courts cases for misdemeanours against 26 officials for failure to submit a declaration or to report a change in the property status. In 2016, the courts rendered 18 decisions in files opened the same year or in previous years. The SCPC also submitted to the Public Revenue Office a total of 8 requests for checks concerning the property of officials.

c) Other information.

- in July 2016, the Register of elected and appointed persons became operational and the SCPC has now an overview of the various persons in State bodies, public enterprises, public institutions or other legal entities who are required to file declarations. This facilitates the recording and monitoring of assets and interests. The register is constantly updated with data submitted by the contact points of the institutions concerned. A total of 2563 asset declarations are now registered.
- In 2016, the SCPC continued the work started in the previous years for checking the data provided in the asset declarations. This is also done through systematic checks of the content of the asset declarations from the persons from certain segments of the system, in compliance with the criteria for determining the asset declarations that will be subject to review. Through the register, the SCPC has access to data on motor vehicles, on real estate, on stocks and bonds (from the Ministry of Interior, the central registry of real estate property, the Central Securities Depository) and this allows to cross-check data with the Trade Registry and the Register of other legal entities.

- In 2016, the SCPC (based on its criteria and work programme), started checking the data from the asset declarations of the persons whose ID number ends with 43. This represents a total of 50 officials: 11 from the executive branch; 13 from the judiciary; and 26 persons performing functions in local self-government bodies. The procedure for checking the data from the asset declarations of the listed persons is in progress. In 2016, as in previous years, in accordance with the rules for the handling of asset declarations, the state bodies, the local self-government units and the judicial authorities, submitted to the SCPC their semi-annual reviews.

97. GRECO takes note of the above information submitted in respect of the (pending) second part of the recommendation. The mere reference to the content of the SCPC's activity report for 2016 is not illustrative of any greater proactivity since the adoption of the first Compliance report in October 2016. The same goes to a large extent for the improvements expected as regards the (more impartial) treatment of possible cases. Moreover, the information is often excessively general in nature, or of limited relevance (updating the register of declarations and cross-checking data should go without saying) or clearly irrelevant, for instance requests for an opinion are counted as "cases". As indicated earlier, GRECO is also mindful of the recent events and controversies concerning the SCPC, and of the findings of the report on the European Neighbourhood Policy and Enlargement Negotiations concerning the SCPC, released in April 2018 – see the overall conclusion below.
98. GRECO concludes that recommendation xix remains partly implemented.

### **III. CONCLUSIONS**

99. **In view of the foregoing, GRECO concludes that "the former Yugoslav Republic of Macedonia" has implemented satisfactorily or dealt with in a satisfactory manner only six of the nineteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, eight have been partly implemented and five have not been implemented.
100. More specifically, recommendations vi, viii, ix, xiii and xvii have been implemented satisfactorily, recommendation x has been dealt with in a satisfactory manner, recommendations i, vii, xi, xii, xiv, xv, xviii and xix have been partly implemented and recommendations ii, iii, iv, v and xvi have not been implemented.
101. With respect to members of parliament, the situation has not changed much and none of the improvements recommended have been implemented even partly, with the exception of the elaboration of a code of conduct for parliamentarians, which is now back on track again after the project had been stalled in the end of 2016.
102. As far as judges and prosecutors are concerned, "the former Yugoslav Republic of Macedonia" has made limited, decisive improvements. GRECO is pleased to see that the Law on the Judicial Council was amended in December 2017 and in May 2018, and that it now provides for appeal possibilities against decisions on appointments and promotions as well as for a periodic appraisal system for judges which places greater emphasis on qualitative criteria. Further changes have been made, for instance to define more clearly the disciplinary infringements but some important concerns in this respect have not been addressed to date. GRECO also noted with interest that new advisory and supervisory bodies are being created for judges and prosecutors to support the implementation of their respective rules of conduct in daily practice and GRECO will need to reassess these improvements when more specific information becomes available. In other cases, measures have been taken but they clearly do not take sufficiently into account the concerns expressed in the Evaluation Report. This is for instance the case as regards practical guidance documents for judges and prosecutors on ways to implement the rules of conduct.

103. As for the system of declarations of assets and interests, GRECO regrets that no meaningful development has taken place to strengthen the control function and to support a more balanced approach (free from political interference) of the State Commission for the Prevention of Corruption. GRECO also notes that the last report of the EU Commission in the context of the European Neighbourhood Policy And Enlargement Negotiations, released in April 2018<sup>15</sup>, observes no progress as regards the strengthening of the SCPC's investigative capacities and its independence from the political parties, and in general, a limited track record of the country as regards cases involving high officials. The SCPC was itself recently embroiled in serious controversies and a majority of its members resigned, amid allegations of mismanagement of assets. There have also been allegation of political pressure on the institution which was perceived by the media as "silent" over the last few years but tried to be more effective in recent months (after a change of government last year)<sup>16</sup>.
104. Overall, at this stage of the process the performance is clearly disappointing and the country clearly needs to take more determined and focused action in respect of a number of recommendations issued four and half years ago.
105. In view of the above, GRECO concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of delegation of "the former Yugoslav Republic of Macedonia" to provide a report on the progress in implementing recommendations i to v, vii, xi, xii, xiv to xvi, xviii and xix as soon as possible, however – at the latest – by 30 June 2019.
106. Finally, GRECO invites the authorities of "the former Yugoslav Republic of Macedonia" to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.

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<sup>15</sup> [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/former-yugoslav-republic-of-macedonia\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/former-yugoslav-republic-of-macedonia_en)

<sup>16</sup> See for instance <http://www.balkaninsight.com/en/article/corruption-allegations-rock-macedonia-s-anti-graft-body-03-05-2018> and <https://www.occrp.org/en/27-cwatch/cc-watch-briefs/7735-macedonia-ex-anti-graft-chief-in-corruption-scandal>