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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

BULGARIA

Adopted by GRECO at its 84th Plenary Meeting
(Strasbourg, 2-6 December 2019)

I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Bulgaria to implement the pending recommendations issued in the Fourth Round Evaluation Report on Bulgaria (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Bulgaria was adopted at GRECO's 67th Plenary Meeting (27 March 2015) and made public on 13 May 2015, following authorisation by Bulgaria ([Greco Eval IV Rep \(2014\) 7E](#)).
3. The Compliance Report was adopted by GRECO at its 77th Plenary Meeting (23 June 2017) and made public on 25 July 2017, following authorisation by Bulgaria ([GrecoRC4\(2017\)9](#)). As required by GRECO's Rules of Procedure, the authorities of Bulgaria submitted a Situation Report on further measures taken to implement the pending recommendations. This report was received on 17 July 2019 and served, together with the information submitted subsequently, as a basis for the Second Compliance Report.
4. GRECO selected Albania (with respect to parliament) and Ireland (with respect to judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Suzana FRASHËRI, on behalf of Albania and M. John GARRY, on behalf of Ireland. 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 Bulgaria in its Evaluation Report. In the Compliance Report, GRECO concluded that recommendations i, ii, vii, viii, x, xii, xiii, xiv, xv, xvi, xviii and xix had been implemented satisfactorily, recommendations iii, iv, v, vi, xi and xvii had been partly implemented and recommendation ix had not been implemented. Compliance with the seven pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendations iii and iv.

6. *GRECO recommended:*
 - *i) carrying out an independent evaluation of the effectiveness of the system for disclosure and ascertainment of conflicts of interest and of its impact on the prevention and detection of corruption amongst officials most exposed to it, including MPs, and taking appropriate corrective action (e.g. eliminating any contradictions in the regulatory framework, revising the mandates of responsible oversight bodies, supplying them with commensurate resources, etc.); and ii) ensuring that MPs' private interests – irrespective of whether they are declared regularly or ad hoc – are subject to substantive and regular checks by an independent oversight body within a reasonable timeframe and that an efficient co-operation is established between the authorities supervising MPs' compliance with the rules on conflicts of interest and on asset disclosure. (recommendation iii)*
 - *i) carrying out an independent evaluation of the impact of the asset disclosure and verification system on the prevention and detection of corruption amongst officials most exposed to it, including MPs, and taking appropriate corrective action (e.g. revising the mandate of the oversight body, supplying it with*

commensurate resources or designating, as the need may be, another institution equipped with adequate means for this purpose); and ii) ensuring that MPs' declared assets are subject to substantive regular checks by an independent oversight body within a reasonable timeframe. (recommendation iv)

7. GRECO recalls that recommendations iii and iv were considered as partly implemented according to the Compliance Report; an assessment of the framework to prevent conflicts of interest and the verification of asset declarations had been carried out, and the establishment of an independent agency to oversee the verification of asset declarations, assessment of conflicts of interest and illegally acquired property had been envisaged in a draft Law on Prevention of Corruption and Forfeiture of Illegal Assets. However, this law had not been adopted at the time.
8. The Bulgarian authorities now report that the Law on Countering Corruption and Forfeiture of Unlawfully Acquired Assets (hereafter "Anti-corruption Law") was adopted by the National Assembly on 12 January 2018 and entered into force on 23 January 2018. As provided by this law, a single anti-corruption body – the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets (hereafter "the Commission") – was established, combining functions of verification of asset declarations and ascertainment of conflicts of interest, and of illegally acquired property of high-level public officials, including MPs. The authorities clarify that the new Commission has succeeded several previously existing anti-corruption bodies in Bulgaria. Chapter 3 of the Anti-corruption Law regulates, *inter alia*, cooperation between the Commission and other competent authorities.
9. According to the authorities, one of the objectives of the new Anti-Corruption Law is to improve prevention of conflicts of interest among senior public officials, including MPs. Chapter Eight, Section IV of the law, entitled "Limitations after Vacation of Senior Public Office", stipulates that a conflict of interest is to be ascertained and sanctioned by one procedure and by one authority – the Commission – allowing the Commission's decision to be appealed in court. Further, as required under the Anti-corruption Law, all declarations of assets and interests of senior public officials submitted annually in the course of their mandate, as well as one year after leaving office, are verified by the Commission, which has the authority to trace origins of the funds, access bank and insurance information, examine the acquisition of declared assets and incomes, investigate instances of possible illegal enrichment and check the property status of senior public officials, including MPs.
10. GRECO welcomes the adoption of the new Anti-corruption Law and the setting up of the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets. It encourages the Bulgarian authorities to ensure efficient implementation of this new legislation and effective functioning of the Commission by carrying out substantive and regular checks, within reasonable time.
11. In view of the above, GRECO concludes that recommendations iii and iv have been implemented satisfactorily.

Corruption prevention in respect of judges

Recommendation v.

12. *GRECO recommended that, in order to help the Supreme Judicial Council to fully assert its legitimacy and credibility and to strengthen its role as guarantor of the independence of judges, decisions on judges' appointment, career, attestation and discipline should be taken by a composition of the Council that is made up of a majority of judges elected by their peers.*

13. GRECO recalls that recommendation v was considered partly implemented according to the Compliance Report, as the Judges' College had been established within the Judicial Council and that six of its members were directly elected by their peers. That said, the number of judges elected by their peers was still less than half of the total number of members of the Judicial College and saw a risk of undue influence from outside the judiciary. The proportion of members elected by the National Assembly in the Judges College remained high, thus posing a risk of politicisation of decisions concerning judges' careers and of possible undue influence of the National Assembly on the careers of judges.
14. The authorities reiterate that the structure, the organisation and the powers of the Supreme Judicial Council (SJC), including its division into colleges of judges and prosecutors, were regulated by the Constitution amendments adopted on 16 December 2015. In particular, Article 130a (3) of the Constitution provides that the Judges' College of the SJC consists of 14 members, including the Presidents of the Supreme Court of Cassation and the Supreme Administrative Court, six members directly elected by the judges, and six members elected by the National Assembly. This constitutional provision is replicated in Article 30, paragraph 3 of the Law on Judiciary.
15. GRECO takes note of the information provided by the authorities. As no legislative or practical measures have been taken, or envisaged by the authorities to further address this recommendation, GRECO maintains its opinion that owing to the current composition of the Supreme Judicial Council, the situation remains the same now as it was at the time of the adoption of the Compliance Report.
16. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

17. *GRECO recommended that the judicial independence be further strengthened by i) substantially reducing the five-year term established for judges acquiring life tenure; and ii) introducing a distinct methodology for a rigorous and in-depth evaluation of qualifications, integrity, ability and efficiency of a judge for the purpose of acquiring life tenure.*
18. GRECO recalls that according to the Compliance Report, only the second part of this recommendation was implemented, while the requirement to substantially reduce the five-year term for established for judges acquiring life tenure has not been addressed by the authorities.
19. The authorities stress that the five-year term for judges acquiring life tenure is established by Article 129 of the Constitution, and the Judiciary System Act. The authorities consider that the five-year period for appraisal has a motivating effect on the magistrates to show their professional and moral qualities for a longer period.
20. GRECO takes note of the information provided by the authorities. In this respect, GRECO recalls that the principle of irremovability pursues the goal of shielding judges from possible undue interference in their work and decision-making. Therefore, a long-time probationary period may increase the risk of judges becoming susceptible to pressure e.g. to decide cases in a particular way. GRECO remains of the opinion that such a period must be no longer than is necessary to assess a judge's suitability for the post, as stated in the Evaluation Report.
21. GRECO concludes that recommendation vi remains partly implemented.

Recommendation ix.

22. *GRECO recommended that the application of supplementary remuneration within the judiciary be subject to clear, objective and transparent criteria.*
23. GRECO recalls that this recommendation was not implemented according to the Compliance Report, as the practice of court presidents awarding year-end bonuses to judges under them and allegations that this had been used to secure loyalties in courts have not been duly addressed. GRECO noted that the rules applicable to determining and disbursing supplementary remuneration, referred to by the authorities, were already known before the adoption of the evaluation report and were not considered sufficient to address the recommendation, which is about the application in practice..
24. The authorities now report that on 22 November 2018 the Supreme Judicial Council adopted new Rules for Determining and Disbursement of Supplementary Remuneration, which establish that supplementary remuneration may be paid (i) for results achieved during the respective year; (ii) for results achieved on specific tasks; and (iii) based on the level of caseload of the relevant body of the judiciary. Further, the Rules stipulate that the amount of additional remuneration for the results achieved during the year for magistrates, inspectors of the SJC, judicial and prosecutorial assistants and judicial officers is determined by their respective administrative head, taking into account their contribution to the results reported by the relevant judicial authority in the course of the year. Article 9, paragraph 2 of the Rules sets out the following criteria for determining the amount of additional remuneration to be paid:
 - individual contribution of the person concerned to the task assigned, taking into account the importance of the task for the overall performance of the respective judicial body;
 - proactivity and innovation;
 - significant results from participation in working groups on priority issues;
 - actions under risky and extraordinary circumstances.
25. In addition, Article 233, paragraph 6 of the Law on the Judiciary was amended in November 2017 (in force as of 1 January 2018) to provide that, based on the caseload of the respective judicial body, the SJC determines supplementary remuneration of judges, prosecutors and investigating magistrates. Heads of respective judicial bodies have to inform the SJC, prior to disbursing supplementary remunerations.
26. GRECO takes note of the information provided by the authorities. The Rules for Determining and Disbursement of Supplementary Remuneration provide criteria for situations that may warrant supplementary remuneration. This is a step in the right direction, if such a system is to be maintained. It is also noteworthy that the Judicial Council is to be notified before such remuneration is disbursed. However, the criteria are rather general and do not provide for clear guidance in such situations in practice. The system of applying supplementary remuneration appears still to be subject to broad discretionary decisions and risks of undue influence.
27. GRECO concludes that recommendation ix has been partly implemented.

Recommendation xi.

28. *GRECO recommended that i) the integrity, conflicts of interest and corruption prevention component of the compulsory induction training provided to junior judges and judges subject to initial appointment be strengthened; and that ii) the professional in-service training on integrity, conflicts of interest and corruption*

prevention within the judiciary be prioritised and properly funded, and guidance and counselling on judicial ethics be made available to all judges.

29. GRECO recalls that this recommendation was partly implemented in the Compliance Report; compulsory online training on ethics had been introduced, and funding provided; however, the training on the integrity, conflicts of interest and corruption prevention required further sustained efforts. No information had been provided by the authorities regarding the availability of guidance and counselling on judicial ethics for all judges.
30. The authorities now report that training on integrity, conflict of interest and corruption prevention for judges at all levels of the judiciary has been set as a strategic priority of the National Institute of Justice (NIJ) for 2017-2019. Thus, in 2018 and 2019 new topics on the integrity in the judiciary and the prevention of conflict of interests were included in the training programme for candidates for junior judges. Candidate judges were also trained on issues of ethical dilemmas and verification and reporting mechanisms for preventing corruption through a training course composed of inter-personal and e-learning components.
31. According to the authorities, the NIJ continues providing targeted trainings focused on the prevention of corruption, as part of the in-service training programme for magistrates. Ethical issues, including the Code of Ethical Behaviour of Bulgarian Magistrates, were also integrated into initial and continuous training programmes on criminal, civil and administrative justice, provided to judges. By way of example, the authorities indicate that from June 2017 to May 2019, the NIJ organised 49 training sessions, which included the topic of corruption prevention, for a total of 850 judges. Further, 102 heads of appeal, district and regional courts, were provided training on ethical dilemmas in the context of decision-making, human resources management, reporting and financial control.
32. In addition, the authorities report that in May 2019 the NIJ initiated translating and adapting e-training tools developed by the Global Judicial Integrity Network (under the UNODC), to make it available for Bulgarian magistrates. A manual for ethics' commissions, prepared by the SJC, has been made available in the NIJ virtual library. Further, in March and April 2019, the NIJ held two meetings with presidents of 52 courts, where it launched an initiative for conducting discussions on ethical issues, as part of training under the Regional Training Programme for Courts and Prosecution Offices. The main objective of these meetings was promoting the necessity for availability of guidance and counselling on judicial ethics.
33. The authorities also report that the NIJ integrated the topic of judicial ethics as a mandatory component in the training of mentor magistrates. Thus, on 12 September 2017, the SJC Judges College adopted Rules on the Activities of the Mentor Judges, which stipulate that mentor judges should support junior judges in applying the Code of Ethical Behaviour and that junior judges should consult mentor judges on practical issues relating to their activities, including ethics. Finally, as a part of its annual action plan for 2019, the NIJ is preparing an analysis of case law of the Supreme Administrative Court on the disciplinary liability of magistrates initiated for breaches of the Code on Ethical Behaviour of the Bulgarian magistrates.
34. GRECO takes note of the broad information provided by the authorities and welcomes the enhanced introductory and in-service training on ethics provided to judges in the course of 2017-2019. GRECO also notes with satisfaction that guidance and counselling tools have been made available to judges.
35. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xvii.

36. *GRECO recommended that the integrity, conflicts of interest and corruption prevention component of the compulsory induction training provided to junior prosecutors and prosecutors subject to initial appointment be strengthened and that guidance and counselling on judicial ethics be made available to all prosecutors.*
37. It is recalled that this recommendation was partly implemented in the Compliance Report: compulsory online training on ethics had been introduced, and funding provided, however, training on ethics and integrity of junior prosecutors required further sustained efforts, and No information had been provided by the authorities regarding the availability of guidance and counselling on judicial ethics for all prosecutors.
38. The authorities now report that training on integrity, conflict of interest and corruption prevention is strategic priority of the NIJ, including in relation to training of prosecutors at all levels of the prosecution service. The training course entitled "Ethical Challenges in the Future Work of the Candidates for Junior Magistrates" has also been the basis for the training programme of 2018-2019 for candidates for junior prosecutors. Similarly, the in-service training for magistrates covering the topic of corruption prevention is provided to prosecutors as part of training sessions on criminal, civil and administrative justice. According to the authorities, the curricula of initial and continuous training of prosecutors incorporate the Code of Ethical Behaviour. By way of example, in June 2017-May 2019, the NIJ organized 49 sessions covering corruption prevention, with an overall participation of 531 prosecutors. In the area of the administrative justice the NIJ delivered 49 training sessions, with the participation of 137 prosecutors.
39. The e-learning tools, which are being translated and adapted by the NIJ as of May 2019 are also to be used for training of prosecutors and investigating magistrates. In addition, the manual for the work of the ethics' commissions, prepared by the SJC, is also available to prosecutors in the NIJ virtual library. Further, in the course of two regional meetings held on 26 March and 8 April 2019 with heads of public prosecutor offices, the NIJ launched an initiative to conduct discussions on ethical issues under the Regional Training Programme for Courts and Prosecutor Offices. The heads of public prosecutor offices are expected to be consulted by subordinate prosecutors in relation to the exercise of their functions, including on matters of ethics and deontology.
40. The NIJ integrated the topic of judicial ethics as a mandatory component in the training of mentor magistrates. On 26 July 2017, the SJC Prosecutors College adopted Rules on Activities of Mentor Prosecutors and Mentor Investigative Magistrates, providing that mentor prosecutors should support junior prosecutors in applying the Code of Ethical Behaviour, and that junior prosecutors should consult mentor prosecutors on practical issues related to their activities.
41. GRECO takes note of information provided by the authorities, which is much similar to the measures taken in respect of judges, and welcomes the enhanced training on ethics provided to prosecutors. GRECO also notes with satisfaction the promotion of consultation and support to junior prosecutors. Finally, it is expected that the results of the analysis of case law of the Supreme Administrative Court on disciplinary liability, mentioned in respect of judges, would also be relevant to prosecutors.
42. GRECO concludes that recommendation xvii has been implemented satisfactorily.

III. CONCLUSIONS

43. **In view of the conclusions contained in the Fourth Round compliance report on Bulgaria and in view of the above, GRECO concludes that Bulgaria has implemented satisfactorily or dealt with in a satisfactory manner in total, sixteen of the nineteen recommendations contained in the Fourth Round Evaluation Report. The three remaining recommendations have been partly implemented.**
44. More specifically, recommendations i, ii, iii, iv, vii, viii, x, xi, xii, xiii, xiv, xv, xvi, xvii, xviii and xix have been implemented satisfactorily, recommendations v, vi and ix have been partly implemented.
45. With respect to members of parliament, a Public Council composed of civil society representatives has been set up within the National Assembly to facilitate public consultation, and the timeline for the examination of draft laws has been extended so as to allow for more time for interested parties to engage in the examination of bills in parliamentary committees. Further, a procedure has been put in place to tackle breaches of ethical rules by MPs, with a parliamentary committee being able to impose sanctions in case of infringements. In addition, an independent review into the prevention of conflicts of interest and verification of asset declaration of MPs has been carried out and the Law on the Prevention of Corruption and Forfeiture of Illegal Assets has been adopted, followed by the setting up of the Commission on Countering Corruption and Forfeiture of Unlawfully Acquired Assets.
46. Insofar as judges and prosecutors are concerned, Bulgaria has taken a number of steps to implement GRECO's recommendations. In particular, the Judges College and the Prosecutors College has been set up within the structure of the Supreme Judicial Council (SJC) to avoid one profession influencing career-related decisions regarding the other. Additional rules have been laid down on integrity checks of judges and prosecutors, including through regular asset declarations. The principle of random case allocation has been put in place in respect of both judges and prosecutors. Steps have been taken to strengthen both initial and on-going training of judges and prosecutors on corruption matters. An assessment of the effectiveness of the supervision and enforcement of integrity standards of the judiciary has been undertaken, and the SJC Inspectorate has been given additional powers of verifications over judges' and prosecutors' asset declarations and conflict of interest declarations, with the Judges College and Prosecutors College being able to undertake disciplinary proceedings. However, some of GRECO's concerns have not been comprehensively addressed. The number of SJC members of the College of Judges elected by the National Assembly still equals that of judges elected by their peers, which leaves the risk of undue political influence on the careers of judges. Further, the five-year term before judges' acquiring life tenure has still not been reduced. Finally, the application of supplementary remuneration for judges appears to remain subject to broad discretionary decisions, and leaves the risk of undue influence.
47. The adoption of this Second Compliance Report terminates the Fourth Round compliance procedure in respect of Bulgaria. The Bulgarian authorities may, however, wish to inform GRECO of further developments with regard to the implementation of the pending recommendations v, vi and ix.
48. Finally, GRECO commends Bulgaria on the progress achieved in the implementation of recommendations, and invites the authorities of Bulgaria to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.