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



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FOURTH EVALUATION ROUND

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

INTERIM COMPLIANCE REPORT CZECH REPUBLIC

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

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I. INTRODUCTION

1. The [Fourth Evaluation Round Report on the Czech Republic](#) was adopted by GRECO at its 72nd Plenary Meeting (1 July 2016) and made public on 2 November 2016, following authorisation by the Czech Republic. GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of the Czech Republic submitted a Situation Report containing information on measures taken to implement the recommendations. GRECO selected Turkey and the Slovak Republic to appoint Rapporteurs for the compliance procedure.
3. In the [Compliance Report](#), adopted by GRECO at its 80th plenary meeting (22 June 2018), it was concluded that the Czech Republic had implemented satisfactorily or dealt in a satisfactory manner none of the fourteen recommendations contained in the Fourth Round Evaluation Report. Seven recommendations had been partly implemented and the remaining seven recommendations had not been implemented. More specifically, recommendations iv, v, vi, viii, x, xii and xiii had been partly implemented and recommendations i, ii, iii, vii, ix, xi, and xiv had not been implemented. In the light of these results, GRECO also concluded that the very low level of compliance with the recommendations was considered "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. It therefore decided to apply Rule 32, paragraph 2.i) in respect of members not in compliance with the recommendations contained in the mutual evaluation report and called on the Head of the delegation of the Czech Republic to submit a report on progress in implementing the pending recommendations by 30 June 2019.
4. On 30 August 2019, the authorities of the Czech Republic submitted information regarding the actions taken to implement the pending recommendations, which served as a basis for the current Report, drawn up by the rapporteurs, Mr Bužra ERDEM, on behalf of Turkey and Ms Zuzana ŠTOFOVÁ, on behalf of the Slovak Republic, assisted by the GRECO Secretariat.
5. This [Interim Compliance Report](#) assesses the implementation of the fourteen recommendations pending since the adoption of the Compliance Report, and provides an overall assessment of the level of compliance of the Czech Republic with these recommendations.

II. ANALYSIS

6. GRECO addressed 14 recommendations to the Czech Republic in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendation i.

7. *GRECO recommended (i) ensuring timely publication of records of parliamentary committee meetings and enhancing the transparency of the work conducted in sub-committee meetings; (ii) introducing rules for members of parliament on how to interact with lobbyists and other third parties seeking to influence the legislative process and making such interactions more transparent.*

8. GRECO recalls that this recommendation was considered not implemented according to the Compliance Report. The rules and practice on publication of records of parliamentary committee meetings, and on the conduct of sub-committee meetings had not been reviewed. Further, preparatory work to regulate lobbyists' activity and the relations of the MPs with lobbyists and other third parties had been initiated, but no formal legislative proposals had been made by the government in this respect.
9. The authorities of the Czech Republic now reiterate that the Rules of Procedure of the respective Chambers of Parliament have still not been amended to meet the requirements of the first part of the recommendation. The authorities again refer to legislation and regulations setting out deadlines concerning approval of minutes of committees' and sub-committees' meetings and their publication, as well as the restricted character of sub-committee meetings of both Chambers.
10. Further, the authorities report that regulating the activity of lobbying is among the priorities of the Czech Government. Thus, on 30 July 2019, the Government approved the draft Act on Lobbying and submitted it to Parliament. The draft envisages regulating lobbying, increasing the transparency of lobbying, and setting up of register of lobbyists and senior public officials, with mandatory registration and activity-reporting requirements. In particular, the draft contains rules regarding meetings between MPs and lobbyists and requires that every meeting between an MP and lobbyists is placed on a public record. The draft also requires MPs to submit quarterly reports concerning their contacts with lobbyists, which should include details on areas discussed, requests made by the lobbyist etc. The draft also introduces the so-called "lobbyists' footprint", making it mandatory for lobbyists and senior public officials to list those involved in the lobbying and disclose their interests. Further, the draft defines the activity of lobbying, as well as lobbyist, and contains an exhaustive list of public officials, covered by its scope. In addition, the draft provides for supervision and sanctions for misdemeanours committed by lobbyists and senior public officials and envisages declaring gifts in the already existing Register of Conflict of Interests, while lowering the threshold for gifts subject to declaration from CZK 10 000 to 5 000 (from approx. €400 to 200 €).
11. GRECO takes note of the information provided by the authorities. Regarding the first part of this recommendation, GRECO notes that the situation remains the same as it was at the time of the adoption of the Evaluation Report. Regarding the second part of the recommendation, GRECO welcomes that the Government has agreed on a draft law, which is currently pending before Parliament. This represents an important step in the direction of regulating the activity of lobbying, in particular to provide transparency in this respect. However, as the draft is not yet adopted by Parliament, it follows that the second part of this recommendation is only partly complied with.
12. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

13. *GRECO recommended (i) that a code of conduct be adopted for members of parliament, made easily accessible to the public, and accompanied by explanatory notes and/or practical guidance, including on conflicts of interest and related matters (e.g. gifts and other advantages, incompatibilities, additional activities and financial interests, post-employment situations, contacts with third parties such as lobbyists, declaration requirements, etc.); (ii) that the code of conduct be complemented by practical measures for their implementation, such as dedicated training, confidential counselling and awareness-raising.*
14. GRECO recalls that this recommendation was not implemented in the Compliance Report. GRECO noted that while some preliminary work had been conducted in the

Chamber of Deputies, and an information seminar had been organised for newly elected deputies, no code of ethics had been adopted in either Chamber of Parliament, and neither any dedicated training, confidential counselling and awareness-raising measures had been provided.

15. The authorities now report that on 25 June 2019 a draft amendment to the Act on the Rules of Procedure of the Chamber of Deputies, allowing the Chamber of Deputies to adopt its Code of Ethics, was discussed by the Working Group for the Rules of Procedure of the Chamber of Deputies. Following submission to Parliament, the draft lacked necessary support and has been returned to the group of deputies who have initiated the amendments for refining. It is expected that this draft will be discussed again, together with the substantive amendments of the Act on the Rules of Procedure of the Chamber of Deputies, currently in preparation. The authorities once again recall that some political parties have approved their own Codes of Ethics applicable to MPs who are party members. Further, the authorities refer again to the introductory seminar for newly elected deputies, and an offer of a more detailed seminar, already mentioned in the Compliance Report.
16. GRECO notes with regret the continuous absence of tangible progress regarding the implementation of this recommendation in respect of both the adoption of a code of conduct for parliamentarians and the provision of dedicated training, confidential counselling and awareness-raising on the implementation of the rules of conduct. GRECO will only be able to assess the implementation of this recommendation once the code of conduct is available and concrete steps are taken for its implementation, including the provision of practical guidance with examples of problematic situations and solutions to them.
17. GRECO concludes that recommendation ii remains not implemented.

Recommendation iii.

18. *GRECO recommended that enforceable rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public; they should, in particular, determine what kinds of gifts and other advantages may be acceptable and define what conduct is expected of members of parliament who are given or offered such advantages.*
19. It is recalled that this recommendation was not implemented in the Compliance Report, as no changes in the legislation concerning gifts and other advantages had been made.
20. The authorities express the view that this recommendation is partly addressed by declarations of income and liabilities required by the Act on Conflict of Interest (Article 11), which obliges senior public officials, including MPs, to declare any monetary income or other material benefits, gifts, remuneration, dividends or other income from shares in legal persons conducting business, received during the term of office as an MP, if their total value exceeds 100 000 CZK (approx. 4 000 €) in a calendar year, except for gifts valued CZK 10 000 (approx. 400 €) or less. Further, the authorities refer to draft Act on Lobbying, whereby it is intended to decrease the value threshold for gifts subject to declaration, and remove the requirement of maximum cumulative value of such gifts for a given calendar year, making it mandatory to declare receipt of any gift with the value of €200 or higher.
21. GRECO notes that the information provided by the authorities concerning declarations of income etc. (already in place at the time of the evaluation of the system) does not remedy the need to develop a robust framework on gifts and other benefits, including advantages in kind, as well as guidance to parliamentarians on conduct expected

when receiving such gifts and advantages. While the recent submission of the draft Act on Lobbying to Parliament for adoption shows some progress in this respect, the draft does not appear to address in-kind advantages and services. Further, no enforceable rules on kinds of gifts and other advantages, which may be acceptable, and on conduct expected of parliamentarians given or offered such advantages, appear to be in preparation. In view of the foregoing, GRECO remains of the opinion that the situation regarding gifts is the same now as it was at the time of the adoption of the Compliance Report.

22. GRECO concludes that recommendation iii remains not implemented.

Recommendation iv.

23. *GRECO recommended (i) requiring members of parliament to also submit declarations of activities, declarations of assets and declarations of income, gifts and liabilities at the beginning of their mandate, introducing an electronic declaration system and making declarations more easily accessible on the internet; (ii) making it clear that declarations must also include in-kind benefits provided to members of parliament; and (iii) considering widening the scope of the declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public).*
24. GRECO recalls that this recommendation was partly implemented in the Compliance Report; the authorities had introduced an obligation of MPs to declare, at the beginning of their mandate, their activities, property, income, gifts and liabilities, reflecting the situation on the day preceding the date of their mandate as MPs; the register of declarations had been fully computerised and made accessible to the public; in-kind benefits had been included among other material benefits subject to declaring. However, the authorities were yet to address the third part of the recommendation: to consider widening the scope of declarations to include information on spouses and dependent family members.
25. The authorities now report that the personal scope of the Act on Conflicts of Interest has been amended to apply to spouses in specific cases only, while leaving out dependent family members. The information stated in a declaration of activities relates only to an MP as a holder of public office. The declaration of property is made on the basis of the same principle, but also includes property in MP's joint possession with his/her spouse. The income of the spouse is, however, specifically excluded from the declaration of income and liabilities (as per Article 11 (2) a). According to the authorities, the draft amendment of the Act on Conflict of Interests concerning broadening the scope of declarations to include information on spouses and dependent family members is under review at the Constitutional Court, in particular as regards its compatibility with the protection of private life. The authorities refer to a decision of the Minister of Justice not to make any amendments to the Act on Conflicts of Interest until the ruling of the Constitutional Court on the matter. Further, in July 2019, the Anti-Corruption Council of the Government¹ opposed to the broadening of the scope of declarations to include information on spouses and dependent family members.
26. GRECO takes note of the information provided by the authorities, in particular the consideration given to possible extension of declaratory obligations to include information concerning spouses and dependent family members of MPs. GRECO wishes to stress that the recommendation does not require that information on

¹ The Anti-Corruption Council is chaired by the Prime Minister and composed of representatives of relevant ministries, law enforcement authorities and NGOs.

spouses and dependent family members is made public. GRECO notes that the consideration of the third part of the recommendation is still on-going.

27. GRECO concludes that recommendation vi remains partly implemented.

Recommendation v.

28. *GRECO recommended significantly strengthening the supervision and enforcement of the various declaration requirements on members of parliament under the Act on Conflicts of Interest, notably by giving an independent monitoring mechanism the clear mandate, powers and adequate resources to verify in depth the declarations submitted, to investigate irregularities and to initiate proceedings and impose effective, proportionate and dissuasive sanctions if the rules are violated.*
29. It is recalled that this recommendation was partly implemented according to the Compliance Report, as the authorities had given explicit powers to the Ministry of Justice (instead of a parliamentary committee) to examine MPs' declarations, a variety of bodies had been given clear competence to carry out subsequent in-depth checks, and a gradation of controls and sanctions had been put in place. However, GRECO wished to re-assess the situation in light of statistical information on the application of these supervisory arrangements, including the volume of examined declarations and examples of concrete cases, and the human and financial resources provided to the relevant structural unit of the Ministry of Justice responsible for supervision. GRECO also reiterated that the sanction of a fine of up to €1 850 merits further review.
30. The authorities now provide detailed information about the functioning, under the responsibility of the Ministry of Justice, of the system to supervise and examine declarations of the MPs submitted in accordance with relevant articles of the Act on Conflicts of Interest, as well as other developments in this regard. In particular, since taking up the supervisory function, the Ministry of Justice has been regularly forwarding findings and suspicions of possible errors in declarations of public officials, including MPs, to responsible bodies, such as the respective municipal commissions and the Office for Personal Data Protection. The modernised website² of the Ministry aims to provide comprehensive information on conflicts of interest to public officials, administrative bodies and the general public, including notifications, methodological materials and answers to frequently asked questions. As regards structural developments, the following two units of the Department of the Conflicts of Interest of the Ministry are in charge of matters relating to conflicts of interest: 1) Methodology and Control Unit and 2) Register of Notifications Unit, with six and eight staff members respectively.
31. In addition, the authorities report that the Ministry of Justice provides methodological support to public officials, subsidiary bodies, supervisory bodies and administrative authorities. In particular, the Ministry developed a methodology concerning the filing of notifications by public officials under the Act on Conflicts of Interest. The methodology has been disseminated to bodies responsible for entering data into the Central Register of Notifications and made available on the Ministry's website. By way of example the authorities refer to three seminars conducted by the Ministry of Justice in the course of March and April 2019, attended by 170 representatives of different supervisory bodies. The authorities also note that as of 1 June 2019, the Central Register of Notifications has been connected to the Land Register, allowing authorised persons to cross-check data contained in these two information systems.

² Available in Czech only:

32. The methodology for filing of notifications under the Act on Conflicts of Interest, developed by the Ministry of Justice, is based on a report analysing the decision-making practice regarding violations in this area, based on data collected from 125 administrative bodies of municipalities and eight regional offices. This report revealed that the majority of violations related to failure of meeting the deadline for submitting notifications. In particular, out of a total of 33 235 public officials registered in the Central Register of Notifications, some 24 621 officials did not meet the statutory deadline in the course of 2018. Following the call by the Ministry of Justice to finalise notifications by 31 August 2018, the number of officials not still having fulfilled this obligation was reduced to 7 568. According to the authorities, relevant supervisory bodies were informed of these irregularities. Further, the report showed that most of the sanctions consisted of fines from €40 up to €600, followed by warnings.
33. According to the authorities, the Ministry regularly controls the timeliness of fulfilling notifications and such controls are not dependent on appeals or information from the public. Regarding verification of factual accuracy, completeness and truthfulness of data contained in declarations of public officials, the Ministry regularly carries out checks of these declarations based on a random selection of files, managed by an automatic generator, accessible only to a few authorised senior officials. The Ministry continues specific checks on the basis of information received from the public. Thus, as of 8 August 2019, the Ministry of Justice received a total of 457 motions from the public, of which 412 were considered irrelevant, unfounded or concerned the failure to fulfil the statutory deadline for submitting declarations. In 40 cases the information provided triggered subsequent control and cases were referred to responsible supervisory bodies. Most of these notifications concerned inconsistencies in the information on immovable property and regarding activities of public officials.
34. GRECO takes the view that the practice demonstrates considerable improvement in the efficiency of the supervisory system regarding declarations submitted by MPs carried out by the Ministry of Justice, which has dedicated human resources required for carrying out of this task. However, it notes with regret that the recommendation to introduce more effective, proportionate and dissuasive sanctions (the current sanctions being limited to a fine of up to €1850) does not appear to have been addressed. This is the only part of the recommendation, which remains to be implemented by the authorities.
35. GRECO concludes that recommendation v remains partly implemented.

Corruption prevention in respect of judges

Recommendation vi.

36. *GRECO recommended (i) regulating in more detail the recruitment and promotion of judges and court presidents so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; and (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*
37. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The authorities had provided for clear rules regarding the initial recruitment to judicial functions, as well as the appointments to the Supreme Court and to the Supreme Administrative Court. However, the subject of promotion of judges had not yet been addressed, while the authorities had indicated their intention to do so by amending the Act on the Courts. Referring to the fact that procedures for judicial appointments were determined by a ministerial instruction, GRECO also noted that firm legislative basis was needed to provide better guarantees of stability and limit possibilities of political interference in judicial careers. Finally, GRECO noted that no

measures had been taken to ensure that decisions regarding recruitment and promotion of judges are reasoned and can be appealed in court.

38. The authorities now inform GRECO that the Government approved draft amendments to the Act on Courts and Judges on 8 October 2019 and they are currently examined by Parliament. The amendments envisage establishing a system of recruitment of new judges and selection of court presidents, based on precise, objective and uniform criteria. The proposed system would consist of five following phases: practice as an assistant of a judge; judicial examination; selection procedure of a judicial candidate; practice of a judicial candidate; and open competition for the position of a judge. Selection committees in third and fifth phases will consist of judges and judicial experts, where judges will have majority. According to the proposed amendments, other legal professionals (lawyers, notaries, bailiffs, public prosecutors) would also be entitled to apply for judicial positions (provided that applicants with no previous practice as a judicial candidate must have at least 10 years of other professional legal practice). As regards presidents of district, regional and high courts, their selection is envisaged through open competitions before selection committees, composed of a majority of judges. The proposal prohibits the possibility to be immediately re-elected as president of the same court. Presidents of High and Regional Courts may be re-elected after 5 years from the end of first mandate. The proposed amendments also envisage for decisions of selection committees to be reasoned. If adopted, the above amendments are expected to enter into force on 1 January 2021.
39. GRECO takes note of the information provided. While welcoming work in progress towards the implementation of the remaining parts of this recommendation, GRECO will only be able to provide a final assessment once the legislative amendments have materialised.
40. GRECO concludes that recommendation vi remains partly implemented.

Recommendation vii.

41. *GRECO recommended (i) that a code of professional conduct for all judges – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues (e.g. on gifts, secondary activities, third party contacts/confidentiality, etc.) – be developed, communicated effectively to all judges and made easily accessible to the public; (ii) that it be complemented by practical measures for its implementation, including confidential counselling and dedicated training for both professional and lay judges.*
42. It is recalled that this recommendation was not implemented, according to the Compliance Report, no tangible results had been achieved as regards the drafting of a code of conduct along the lines recommended by GRECO, and consequently no dedicated measures had been put in place to support its implementation.
43. The authorities now report that a code of conduct applicable to all judges has still not been finalised. In the course of 2019, the Ministry of Justice held discussions with representatives of the judiciary concerning the setting up of a working group consisting of representatives of the judiciary, Ministry of Justice, academia and other relevant members, with the purpose of preparing a model code of professional conduct for judges, to be ultimately adopted by presidents of courts of different levels. Concurrently, judges also decided to set up a separate working group composed of representatives of regional, higher and supreme courts as well as of the Union of Judges. The working group held its first meeting on 31 October 2019. In a letter addressed to the Ministry on behalf of Presidents of the Supreme Court, the Supreme Administrative Court and the Union of Judges, representatives of the judiciary informed the Ministry of their intention to prepare a code of conduct

applicable to all judges and to take into account relevant international standards, as well as recommendations of GRECO.

44. GRECO takes note of the information submitted and notes a modest progress made in the implementation of this recommendation. The setting up of a working group by various representatives of the judiciary with a view to preparing a code of conduct for the judiciary is an encouraging development. GRECO notes that work on the drawing up of a code of conduct for judges appears to be underway within the judiciary. However, no tangible results have been achieved.
45. GRECO concludes that recommendation vii remains not implemented.

Recommendation viii.

46. *GRECO recommended regulating more closely the exercise by judges of secondary activities, including by introducing a reporting requirement and, as appropriate, monitoring of compliance with the existing restrictions on the exercise of such activities.*
47. GRECO recalls that this recommendation was partly implemented in the Compliance Report as the authorities introduced mandatory annual declarations of assets and interests for judges, including activities, property, income, gifts and liabilities. However, the adoption of stricter limits and a system of authorisation to engage in permitted secondary activities, as well as effective monitoring, was pending.
48. The authorities now report that draft amendments to the Act on Courts and Judges (see paragraph 38 above) contain new rules on judges' secondary activities, pursuant to which judges are to report to presidents of respective courts any secondary activities exercised in the previous calendar year by 30 June of the subsequent year. Such reports should contain information about the type and form of the exercised activity, person for whom it was exercised, place where it was exercised and its duration. According to the amendments, judges who do not exercise such secondary activities, or who earn less than 20 % of their annual judge's salary through such activities, are exempted from the reporting obligation.
49. GRECO takes note of the information regarding draft amendments to the Act on Courts and Judges, under examination by Parliament. It would appear that the draft amendments envisage closer regulation of judges' secondary activities by introducing reporting obligations on such activities, including their type and form, their place of exercise and the duration. This is a step in the right direction. GRECO also notes that judges' secondary activities form part of annual declarations submitted to and verified by the Supreme Court. Regarding the second part of the recommendation, GRECO notes that according to the draft amendments, judges should be reporting secondary activities to presidents of respective courts, who will be responsible for monitoring compliance with the restrictions on the exercise of such activities by judges. As the draft legislation has not yet been adopted by Parliament, GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix.

50. *GRECO recommended introducing the possibility for judges to challenge disciplinary decisions including for dismissal before a court.*
51. GRECO recalls that this recommendation was not implemented in the Compliance Report. The authorities had intended to present amendments to several laws relating to the judiciary, which would *inter alia* introduce the possibility of appealing disciplinary decisions before court, but these amendments had not yet been adopted.

52. The authorities report that work is still underway in the Ministry of Justice on a legislative proposal to introduce a possibility of appeal against disciplinary decisions. The legislative proposal to amend the Act on proceedings relating to judges, public prosecutors and court executors, also envisages setting up a special chamber responsible for unification of case law in disciplinary proceedings. The draft proposal has been submitted to the Government on 5 November 2019 to be discussed by the Legislative Council and its working groups, prior to submitting the draft to Parliament. According to the authorities, the draft envisages allowing judges to appeal against disciplinary decisions before the disciplinary senate of the Supreme Administrative Court.
53. GRECO takes note of the information on legislative proposals underway concerning the introduction of appeal possibilities for judges against disciplinary decisions. As no tangible result has been achieved as yet, GRECO concludes that recommendation ix remains not implemented.

Corruption prevention in respect of prosecutors

Recommendation x.

54. *GRECO recommended (i) regulating in more detail the recruitment and promotion of public prosecutors so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*
55. It is recalled that this recommendation was partly implemented according to the Compliance Report. The authorities had taken first steps towards implementation by having drawn up a coordination agreement providing for specific rules on recruitment and promotion of prosecutors and including a possibility to appeal against recruitment decisions. However, the entry into force of this agreement was pending, and GRECO also requested these rules to be duly reflected in legislation to ensure their stability and better safeguards against political influence.
56. The authorities now report that on 23 August 2019 draft amendments to the Act on Public Prosecutor's Office were submitted to the Legislative Council of the Government, which discussed the draft on 12 September 2019 and proposed to the Government certain legislative changes and to present it – when agreed – to the Parliament. The Government has not yet discussed the draft. Among the suggestions contained in the draft is the introduction of the duration for prosecutors' terms of office, clarification of rules for dismissal of chief prosecutors through disciplinary proceedings, and the selection procedure for High, Regional and District prosecutors.³ Draft amendments also include requirements of a minimum duration of work experience for a public prosecutor to be exceptionally assigned to other than district public prosecutor's office and a minimum duration of work experience for being promoted to a higher prosecutor's office (provided he/she had no disciplinary violations). However, the Governmental Council on the fight against corruption took the view that proposed amendments increased the involvement of the executive branch in the selection procedure of prosecutors. Also, the Supreme Public Prosecutor expressed substantive critical comments on the draft amendments, *inter alia* on the nomination procedure of the selection committee members.

³ By the selection committee composed of five members: two nominated by the Minister of Justice, two nominated by public prosecutors, one judge nominated by joint agreement of Minister of Justice and the president of the equivalent court, or selected by drawing of lots

57. The authorities also report that the Agreement between the Chief Prosecutors and the Minister of Justice on the Selection and Career Progress of Public Prosecutors, which was in preparation at the time of adoption of the Compliance Report, has been concluded on 25 June 2018 between the Ministry of Justice, the Office of the Supreme Public Prosecutor, the High Public Prosecutor's Office in Prague, the High Public Prosecutor's Office in Olomouc and a further eight regional and municipal public prosecutors' offices. The Agreement contains detailed rules on the selection and promotion of prosecutors and aims at achieving uniformity of these rules for all prosecutorial appointments and promotions. However, contrary to indications given by the authorities at the time of adopting the Compliance Report, the Agreement contains no provision allowing to appeal appointment/promotion decision before court.
58. GRECO takes note of the entry into force of the Agreement on the Selection and Career Progress of Public Prosecutors between the Ministry of Justice and prosecutors' offices of different levels. While this is a welcome development, GRECO regrets that the recommendation to introduce a possibility to appeal against recruitment/promotion decisions before court has not been incorporated in the Agreement. Further, GRECO reiterates the importance of anchoring these rules in relevant legislation, including the possibility of an appeal before court.
59. GRECO concludes that recommendation x remains partly implemented.

Recommendation xi.

60. *GRECO recommended reforming the procedures for the appointment and recall of the Supreme Public Prosecutor and other chief public prosecutors, in particular by ensuring (i) that any decisions in those procedures are reasoned, based on clear and objective criteria and can be appealed to a court; (ii) that appointment decisions are based on mandatory, transparent selection procedures and; (iii) that recall is possible only in the context of disciplinary proceedings.*
61. GRECO recalls that this recommendation was not implemented in the Compliance Report. The authorities had been preparing a draft Act on Public Prosecution, which was expected to encompass the requirements of this recommendation, but it did not advance in Parliament due to the end of its term in 2017 (general elections).
62. The authorities now refer to the draft amendments to the Act on Public Prosecutors (see paragraphs 56 and 57 above). The amendments, in particular, envisage limiting the possibility of dismissing prosecutors only through disciplinary proceedings, fixing terms of office of chief prosecutors and setting out main requirements for appointments to chief prosecutorial positions (in addition to the absence of disciplinary sanctions, professional knowledge, professional experience and moral qualities guaranteeing proper performance of duties, and a minimum required period of practice). In the context of this recommendation, the authorities also refer to the Agreement between the Ministry of Justice and different prosecutors' offices (see paragraph 57).
63. GRECO takes note of the information provided. Even though the conclusion of the Agreement between the Ministry of Justice and different prosecutors' offices is a considerable step forward in setting out clear rules and criteria regarding appointment, transfer and promotion of prosecutors, it does not regulate prosecutors' removal from office. Neither have any rules been established allowing to appeal decisions before court (see paragraph 58). It follows that further measures need to be taken to meet the requirements of the present recommendation.
64. GRECO concludes that recommendation xi remains not implemented.

Recommendation xii.

65. *GRECO recommended (i) that a code of professional conduct for all public prosecutors – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues (e.g. on gifts, secondary activities, third party contacts/confidentiality, etc.) – be developed, communicated effectively to all public prosecutors and made easily accessible to the public; (ii) that it be complemented by practical measures for its implementation, including confidential counselling and dedicated training.*
66. GRECO recalls that this recommendation was partly implemented according to the Compliance Report, as a code of conduct for public prosecutors was in the drafting process. GRECO also noted that the code of conduct should be accompanied by explanatory comments and effective implementing measures (confidential counselling, dedicated training etc.).
67. The authorities now report that on 16 April 2019 the Supreme Public Prosecutor, High Public Prosecutors, Regional Public Prosecutors and City Public Prosecutor in Prague approved the Code of Ethics for Public Prosecutors. The new Code entered into force on 1 May 2019 as a uniform code of ethics, binding on all prosecutors in the Czech Republic, and replacing all previously existing codes of prosecutorial ethics.⁴ The Code of Ethics rests on the following six main principles: (i) legality and independence, (ii) impartiality, (iii) professionalism, (iv) credibility, (v) dignity and demeanour, and (vi) cooperation. On 24 April 2019, the Supreme Public Prosecutor issued a Commentary to the new Code of Ethics, which provides an overview of European standards on the matter and offers detailed explanation of each principle contained in the Code, along with practical examples and relevant domestic case law. The Commentary covers, inter alia, issues relating to gifts, secondary activities, third party contacts and confidentiality.
68. In addition, the prosecutorial act ("Measure of the Chief Public Prosecutor) approving the Code of Ethics, adopted on 16 April 2019, stipulates that consultation on the interpretation of and compliance with the Code of Ethics is provided by Chief Public Prosecutors upon request of the prosecutor concerned, on the basis of confidentiality. It also envisages that Chief Public Prosecutors provide with training on the Code of Ethics to prosecutors at the time of taking up office, as well as at least once in three years while in office.
69. GRECO welcomes the adoption of the Code of Ethics applicable to all public prosecutors in the Czech Republic. It further notes with satisfaction the detailed Commentary, issued by the Supreme Public Prosecutor's Office, which offers valuable guidance for uniform interpretation and effective implementation of the Code of Ethics. GRECO also welcomes the provisions on the establishment of confidential counselling and training, contained in the prosecutorial act approving the Code of Ethics. It would appear that training sessions relating to the Code of Ethics have been conducted on 11-12 November 2019 at the Supreme Public Prosecutor's Office and further training for regional and municipal prosecutors is currently under way. In addition, the authorities report that the Judicial Academy included training on the Code of Ethics of prosecutors into its curriculum.
70. In view of the above, GRECO concludes that recommendation xii has been implemented satisfactorily.

⁴ The Code of Ethics and the Commentary are both available on the internal network of the Supreme Public Prosecutor's Office and the Internet website of the Public Prosecutor's Office.

Recommendation xiii.

71. *GRECO recommended regulating more closely the exercise by public prosecutors of secondary activities, including by introducing a reporting requirement and, as appropriate, monitoring compliance with the existing restrictions on the exercise of such activities.*
72. It is recalled that this recommendation was partly implemented according to the Compliance Report, as the Act on Conflicts of Interest had been amended with requirements of mandatory annual declarations in different areas, including in respect of secondary activities, subject to review by the Ministry of Justice.
73. The authorities once again refer to the new provisions of the Act on Conflicts of Interest, and the fact that public prosecutors must annually submit a series of declarations on different matters, including secondary activities, to the Central Register managed by the Ministry of Justice. Further, reference is made to the draft amendments to the Act on Public Prosecution, which also envisages regulating prosecutors' secondary activities and caters for setting up of a reporting mechanism for such activities, based on *ex post* notifications. Such notifications should include the subject of activity, the manner and place where it was carried out and the body or organisation for which the activity was performed. In the authorities' opinion, such a system would contribute to monitoring prosecutors' compliance with the law and help preventing possible violations of prosecutors' dignity, or jeopardizing public trust in the impartial and professional performance of the prosecutors' duties.
74. GRECO notes that the more detailed reporting rules, announced at the time of the adoption of the Compliance Report, have still not been adopted and no further tangible progress has been achieved in implementing this recommendation. It would appear that no provision on the need to report secondary activities has been included neither in the newly adopted Code of Ethics, nor in the Commentary of the Supreme Public Prosecutor's Office (see paragraph 67), even though the latter reproduces the Section 24(6) of the Act on the Office of the Public Prosecutor containing restrictions. GRECO will be in a position to assess the implementation of this recommendation once the expected amendments to the Act on Public Prosecution are adopted. At present, the situation regarding this recommendation remains the same as it was at the time of the adoption of the previous Compliance Report.
75. GRECO concludes that recommendation xiii remains partly implemented.

Recommendation xiv.

76. *GRECO recommended introducing the possibility for public prosecutors to challenge disciplinary decisions including dismissal before a court.*
77. It is recalled that this recommendation was not implemented according to the Compliance Report. GRECO noted that legal amendments had been in preparation to introduce a possibility to appeal against disciplinary decisions before court, but had not been adopted at the time.
78. The authorities now report that the implementation of the present recommendation is carried out in conjunction with a similar recommendation concerning judges (recommendation ix). It is repeated that work is under way in the Ministry of Justice on the legislative proposal to introduce a possibility of appeal against disciplinary decisions. This is expected to be discussed by the Government in the autumn of 2019 and subsequently presented to the Chamber of Deputies. In addition, other amendments, relevant to this recommendation, such as the introduction of the dismissal of chief prosecutors only through disciplinary proceedings and of fixed

terms of office for such prosecutors (see paragraph 56) are currently examined by the Government.

79. GRECO takes note of the information provided. It would appear that, as is the case with recommendation ix regarding judges, no tangible progress has been achieved in the implementation of this recommendation.
80. GRECO concludes that recommendation xiv remains not implemented.

III. CONCLUSIONS

81. **In view of the foregoing, GRECO concludes that the Czech Republic has implemented satisfactorily or dealt with in a satisfactory manner one of the fourteen recommendations contained in the Fourth Round Evaluation Report.** Seven recommendations have been partly implemented and the remaining six recommendations have not been implemented.
82. More specifically, recommendation xii has been implemented satisfactorily, recommendations i, iv, v, vi, viii, x and xiii have been partly implemented and recommendations ii, iii, vii, ix, xi, and xiv have not been implemented.
83. With respect to members of parliament, the implementation of the recommendations maintains a very slow pace. Even though the system for declaration of interests, income and assets has been modernised and the supervision in this area has been strengthened, no measures have been taken to increase the transparency of the legislative process. The Government submitted to Parliament a draft law on regulation of lobbying, but the draft has not yet been adopted. A code of conduct for parliamentarians and accompanying implementing measures have still not been adopted, but some legislative measures are under way to allow the two Chambers to enact such codes.
84. Regarding recommendations relevant to judges, some improvements have been made on recruitment and promotion of judges. Further legislative amendments are currently examined by the Government to establish a system of recruitment of judges and selection of court presidents, based on precise, objective and uniform criteria. However, the adoption of a code of conduct has still not materialised. Further, as regards the reporting by judges of their secondary activities, no measures have been taken to monitor judges' compliance with the restrictions on the exercise of such activities. In addition, no progress has been made in introducing the possibility for judges to challenge disciplinary decisions, including dismissal, before a court.
85. As regards prosecutors, by the conclusion of the Agreement on the Selection and Career Progress of Public Prosecutors with the Ministry of Justice rules and criteria regarding appointment, transfer and promotion of prosecutors have been established. Nonetheless, it is regrettable that the Agreement contains no regulations on prosecutors' removal from office, and offers no possibility to appeal against recruitment/promotion decisions before court. The adoption of a Code of Ethics, applicable to all public prosecutors is an achievement. The Code has been complemented with a detailed Commentary by the Supreme Public Prosecutor's Office, containing practical guidance for the implementation of the Code of Ethics and training in this respect. Further, some improvements were made regarding prosecutors' reporting obligations on their secondary activities through amendments to the Act on Conflicts of Interest, but more detailed rules have still not been adopted. Finally, no progress has been made in introducing the possibility for prosecutors to challenge disciplinary decisions, including dismissal, before a court.

86. In view of the above, GRECO concludes that the current 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 Czech Republic to provide a report on the progress in implementing recommendations i to xi, as well as xiii and xiv as soon as possible, however – at the latest – by 31 December 2020.
87. Finally, GRECO invites the authorities of the Czech Republic to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.