



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 3 December 2021
Publication: 9 February 2022

Public
GrecoRC4(2021)22

FOURTH EVALUATION ROUND

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

INTERIM COMPLIANCE REPORT

REPUBLIC OF MOLDOVA

Adopted by GRECO at its 89th Plenary Meeting
(Strasbourg, 29 November – 3 December 2021)

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I. INTRODUCTION

1. This Interim Compliance Report assesses the measures taken by the authorities of the Republic of Moldova to implement the fourteen pending recommendations issued in the Fourth Round Evaluation Report on the Republic of Moldova (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. [The Fourth Round Evaluation Report](#) on the Republic of Moldova was adopted at GRECO's 72nd Plenary Meeting (1 July 2016) and made public on 5 July 2016, following authorisation by the Republic of Moldova (GRECO Eval4Rep(2016)6). [The Compliance Report](#) was adopted by GRECO at its 81st Plenary Meeting (on 7 December 2018). [The Second Compliance Report](#) (GrecoRC4(2020)9) was adopted at the 85th Plenary (21-25 September 2020) and made public on 13 October 2020, following authorisation by the Republic of Moldova.
3. In the Second Compliance report, GRECO concluded that only four of the eighteen recommendations had been implemented and that this low level of compliance with the recommendations was "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure and therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report. GRECO asked the Head of delegation of the Republic of Moldova to provide a report on the progress in implementing the pending recommendations by 30 September 2021. The Situation report was received on 5 October 2021 and served, together with information submitted subsequently, as a basis for this Interim Report.
4. GRECO selected Azerbaijan and Portugal to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Elnur Musayev, on behalf of Azerbaijan and Mr António Delicado, on behalf of Portugal. They were assisted by GRECO's Secretariat in drawing up the Interim Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO, in its Fourth Round Evaluation Report, addressed 18 recommendations to the Republic of Moldova. In the Second Compliance Report, GRECO concluded that recommendations v, xi, xii and xvi had been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, iv, vii, viii, ix, x, xiii, xiv, xv and xvii had been partly implemented and recommendations ii, iii, vi and xviii had not been implemented. Compliance with the pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendation i.

6. *GRECO recommended ensuring (i) that draft legislation, all amendments and all supporting documents as required by law are published in a timely manner and (ii) that adequate timeframes are followed to allow for meaningful public consultation and parliamentary debate, including by ensuring that the emergency procedure is applied only in exceptional and duly justified circumstances.*
7. It is recalled that in the Second Compliance Report, the recommendation was partly implemented. GRECO noted improvements as regards regular and transparent publications of parliamentary work, involvement of the civil society at the level of parliamentary committees, as well as openness to requests from citizens and media. However, it underlined that the parliamentary website needed to be updated and the

unified e-Legislation portal did not function. Moreover, it noted that the emergency and accelerated procedures had increasingly been used for adopting laws, without sufficient consultations.

8. The authorities of the Republic of Moldova now report that despite the sanitary crisis, the Ministry of Justice has continued organising sessions and public hearings on drafting or amending legislation. They also indicate that draft laws were subject to public consultations. The official ministerial website publishes notices regarding the initial decision for elaborating decisions and notices of public consultations. A significant number of draft laws continue to be adopted through urgent or simplified procedures. As regards the E-legislation system, the authorities indicate that it is still under preparation and could be presented for public consultation in the near future. Furthermore, they report that an e-voting system has been introduced in Parliament, to increase the transparency of the law-making process.
9. GRECO notes that the limited information provided does not make it possible to assess the evolution of the situation since the previous report as regards the law-making process, including both public consultations and the use of emergency or accelerated procedures. In addition, it notes that the parliamentary website has still not been updated and that the unified e-Legislation is not operational yet.
10. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

11. *GRECO recommended (i) adopting a code of conduct for members of Parliament and ensuring that the future code is made easily accessible to the public; (ii) establishing a suitable mechanism within Parliament, 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.*
12. It is recalled that in the Second Compliance Report, the recommendation was not implemented. More precisely, GRECO noted that the draft Code of Parliamentary Rules and Procedures had to be completed beyond the existing provisions on discipline and sanctions, so that conflicts of interest and related matters (gifts, incompatibilities, additional activities and financial interests, lobbying etc.) would be addressed. It noted the authorities' intention of merging the draft Code of Ethics and Conduct of Parliamentarians with the draft Code of Parliamentary Rules and Procedures.
13. The authorities now indicate that the drafting of a Code of Ethics and Conduct of Parliamentarians, initiated in 2016, is still pending. This is also the case as regards the drafting of a Code of Parliamentary Rules and Procedures, which was initiated in 2018.
14. As no new information has been provided since the last Report, GRECO can only conclude that recommendation ii remains not implemented.

Recommendation iii.

15. *GRECO recommended introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process.*
16. It is recalled that in the Second Compliance Report, the recommendation was not implemented. GRECO noted that no new information had been provided as regards lobbying activities and that the relevant provisions did not appear in the draft Code of Parliamentary Rules and Procedures.

17. The authorities do not report any new information on this issue.
18. As no new information has been provided since the last Report, GRECO can only conclude that recommendation iii remains not implemented.

Recommendation iv.

19. *GRECO recommended ensuring a significantly more independent and effective control, by the National Integrity Commission, of compliance by members of Parliament, judges and prosecutors with the rules on conflicts of interest, incompatibilities, statements of personal interests and statements of income and property.*
20. It is recalled that in the Second Compliance Report, the recommendation was partly implemented. GRECO appreciated that the National Integrity Authority (NIA) had become operational and that a substantial part of its controls concerned parliamentarians, judges, and prosecutors. However, it noted weaknesses which undermined the NIA's effectiveness: an adopted strategy was lacking, the Authority was understaffed and only 17 integrity inspectors out of 46 had been appointed. The level of professional capacities was assessed insufficient.
21. The authorities of the Republic of Moldova now indicate that 25 integrity inspectors (out of 46) are working within NIA. Between October 2019 and July 2021, the NIA operated 3000 controls of declarations of assets and personal interests regarding parliamentarians, judges and prosecutors, on the basis of *ex officio* controls, notifications from individuals, legal entities and public information (including media investigations). They resulted in 63 contravention cases (13 for parliamentarians, 14 for judges and 36 for prosecutors) on which 49 decisions of contravention were taken (11 for parliamentarians, 9 for judges and 29 for prosecutors). Some cases are still pending. 14 cases were forwarded to criminal inspection bodies for suspicion of offences (6 for parliamentarians, 2 for judges, 6 for prosecutors).
22. The authorities also report that a Memorandum of Understanding (MoU) with the European Union on "macro-financial assistance" was signed in July 2020. The annual budget of the NIA has been increased¹. The MoU includes measures for improving NIA's effectiveness through amendments to the legislation on declaration of assets and conflicts of interest. Such amendments are aimed to strengthen the powers of integrity inspectors for seeking assets from independent experts, for controlling affiliated persons if necessary and for obliging stakeholders to declare asset at their real market value. On 7 October 2021, Parliament adopted in a final reading the amendments to the Law on NIA and the Law on declaration of assets and personal interests, published in the Official Gazette on 29 October 2021.
23. GRECO notes that the legislation aimed at strengthening the NIA's independence and effectiveness, and enhancing the rules governing the declaration of assets and personal interests have been adopted. It also notes that the NIA has further developed its controls of the declarations of assets and personal interests of parliamentarians, judges and prosecutors, that these controls have indeed resulted in administrative sanctions and, when appropriate, referrals to the criminal investigation bodies. It highlights that the NIA's budget has been increased, but that the NIA remains understaffed, as only half of the staff expected has been appointed so far, and that no specific training programme has been put in place for

¹ This increase is confirmed in the report of the European Commission: "Association Implementation Report on the Republic of Moldova" dated 13 October 2021.

strengthening the inspectors' professional capacities. Moreover, a global strategy for NIA is still lacking.

24. GRECO concludes that recommendation iv remains partly implemented.

Recommendation vi.

25. *GRECO recommended that determined measures be taken in order to ensure that the procedures for lifting parliamentary immunity do not hamper or prevent criminal investigations in respect of members of Parliament suspected of having committed corruption related offences.*
26. It is recalled that in the Second Compliance Report, this recommendation was not implemented. GRECO noted that, although Parliament had reportedly lifted immunities in all cases, there was no clear and objective criteria guiding the parliamentary procedure and decisions.
27. The authorities now confirm that the immunity of parliamentarians continues to be lifted in practice, upon request of the Prosecutor General, but indicate that there has been no change as regards the adoption of the Code of Parliamentary Rules and Procedures which is due to include a procedure for lifting parliamentarians' immunity. In September 2021, a referral was submitted by 63 parliamentarians to propose constitutional amendments aimed at making it possible to lift immunity without prior approval of Parliament when parliamentarians have committed passive or active corruption, abuse of powers, illicit enrichment and money laundering offences. This referral was accepted by the Constitutional Court. Therefore, the Law on amending the Constitution can be examined by Parliament after 6 months from the submission of the draft law.
28. GRECO takes note of the information provided and encourage the authorities to adopt a clear legal framework as regards the lifting of parliamentary immunity, including objective criteria guiding the parliamentary procedure and decisions, which has not been done so far.
29. GRECO concludes that recommendation vi remains not implemented.

Corruption prevention in respect of judges

Recommendation vii.

30. *GRECO recommended (I) changing the composition of the Superior Council of Magistracy, in particular by abolishing the ex officio participation of the Minister of Justice and the Prosecutor General and by allowing for more diverse profiles among lay members of the Council, on the basis of objective and measurable selection criteria; (ii) ensuring that both judicial and lay members of the Council are elected following a fair and transparent procedure.*
31. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. GRECO regretted the rushed adoption of legislative amendments to the law on the Superior Council of Magistracy (SCM) in December 2019, indicating that its composition should consist of at least half of its members being judges elected by their peers, and that the *ex officio* members (Minister of Justice, Prosecutor General and President of the Supreme Court of Justice) had not been excluded as provided for by draft amendments to the Constitution, which had not been adopted following a decision by the Constitutional Court in September 2020. That said, GRECO noted a positive development with the new regulatory framework for the selection by Parliament of the members of the SCM but regretted that this regulation did not

include criteria for assessing the integrity of candidates and remained concerned by the assessment of candidates by a committee in a closed session. It also noted that the election in March 2020 of four lay members of the SCM had been criticised for not being conducted in an appropriate manner which raised questions as to the real or perceived fairness of the election process in practice.

32. The authorities of the Republic of Moldova now report that amendments to the Constitution were voted by Parliament on 23 September 2021 and published in the Official Gazette on 1 October 2021 – they will enter into force 6 months after the publication. These amendments change the composition of the SCM which will now be composed of 12 members elected for a non-renewable period of six years including:
- six judges, representing all levels of the courts, elected by the General Assembly of judges,
 - six lay members elected by Parliament by a three-fifth majority, with experience in the field of law or other relevant field, who do not belong to the legislative, executive or judicial powers and are not politically affiliated; they are to be selected by competition, through a transparent procedure, based on merit.
33. GRECO welcomes the significant progress made with the adoption of the new constitutional framework for the composition of the SCM. Half of the members of the SCM are now to be judges, elected by their peers according to a specific procedure and representing all the court levels, as well as lay members whose independence is strengthened by the criteria and the procedure defined for their election by Parliament. The Minister of Justice and the Prosecutor General will not sit anymore within the SCM as *ex officio* members. GRECO encourages the authorities to adopt the subsequent legislation for defining the procedure and conditions for the election, appointment, and termination of the mandate of the members of the SCM. GRECO cannot consider that the recommendation has been implemented more than partly as long as it has not been able to analyse how the legislation will guarantee that the appointment of the members of the SCM is based on objective and measurable selection criteria, following a fair and transparent procedure.
34. GRECO concludes that recommendation vii remains partly implemented.

Recommendation viii.

35. *GRECO recommended that decisions of the Superior Council of Magistrates be adequately reasoned and be subject to judicial review, both on the merits of the case and on procedural grounds.*
36. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. GRECO was satisfied with the mechanism for judicial review of SCM decisions and noted that the legislation amended in 2018 established some requirements for the SCM to motivate its decisions regarding judicial appointments in case it did not follow a recommendation of the Selection Board. However, it noted that the existing practice had to evolve so that SCM's decisions on recruitment, career and disciplinary matters include systematic and adequate reasoning.
37. The authorities do not report any new information on this issue, neither regarding legislative changes, nor in practice.
38. GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix.

39. *GRECO recommended (i) that appropriate measures be taken, with due regard to judicial independence, in order to avoid the appointment and promotion to judicial positions of candidates presenting integrity risks; and (ii) abolishing the five-year probation period for judges.*
40. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. As regards the first part of the recommendation, GRECO welcomed that the draft law on the vetting of judges of the Supreme Court, presidents and vice-presidents of Courts of Appeal and of specialised prosecutors had been abandoned and that the vetting of judges was limited as an exceptional measure. It noted that the SCM had taken measures to review the regulatory framework for the competitions for judicial positions and the promotion and transfer of judges. However, it found that the testing of the integrity of the candidate judges during the selection process was not adequately regulated by clear, predictable and comprehensive rules to be consistently applied in practice. As regards the second part of the recommendation, GRECO also noted that draft constitutional legislation, inter alia, aimed at abolishing the 5-year probation period for judges, had been judged as not constitutional by the Constitutional Court.
41. The authorities of the Republic of Moldova now reiterate, as regards the first part of the recommendation, that candidate judges are tested through polygraph and indicate that 56 candidates were tested in 2020 and, at this stage, 2 in 2021. They indicate concrete cases in 2020 and 2021 where the SCM have refused to appoint or promote candidates, including after the initial five-year probation period or as regards candidates to the Supreme Court of Justice. They recall that technical cooperation took place on this issue within the framework of the Council of Europe's action Plan against Corruption. As regards the second part of the recommendation, the authorities indicate that in September 2021, Parliament adopted the amendments to the Constitution which abolish the five-year initial probation period for judges – it will enter into force six months after its publication in the Official Gazette.
42. GRECO takes note of the information provided. It also notes that the Council of Europe Secretary General's High Level Working Group, including the Executive Secretary of GRECO, visited the Republic of Moldova on 19-21 October 2021. The Working Group, which supports the judicial reform process in the Republic of Moldova, learned that the Government is envisaging an external assessment (vetting) of all judges and prosecutors, as well as inter alia of the members of the SCM and SCP and a number of officials of the anticorruption bodies. The Group assessed that the need to address corruption in the justice system in order to restore confidence and ensure quality of justice is well documented, and the Government's commitment to these aims is to be welcomed. GRECO recalls that anti-corruption efforts should be proportionate and compatible with the requirements of judicial independence and, therefore, that the integrity of (candidate) judges should be tested within the framework of clear, predictable, comprehensive and consistently applied rules. Indeed, it will be important that steps undertaken as part of the reforms include the necessary safeguards and respect the Moldovan constitutional and legal frameworks, as well as the relevant provisions of the European Convention on Human Rights (in particular Article 6) and the case law of the European Court of Human Rights. If a large-scale assessment is taken forward, GRECO would encourage the authorities to ensure the legislative framework and operational capacity are in place to replace those judges and prosecutors who fail the assessment, or choose not to undergo it, with well-qualified new candidates whose integrity is checked prior to appointment, also in a standards-compliant procedure. As this procedure has not been put in place yet, GRECO can only assess the first part of the recommendation as partly implemented. With the adoption by Parliament of the constitutional

amendments abolishing the five-year initial probation period for judges, GRECO considers that the second part of the recommendation has been implemented satisfactorily.

43. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.

44. *GRECO recommended that additional steps be taken (I) to ensure that cases are adjudicated without unjustified delays and (ii) to increase the transparency and accessibility of information available to the public on judicial activity.*

45. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. Concerning the first part of the recommendation, GRECO noted that no changes in legislation had occurred, although a trend of reducing lengths of proceedings appeared to be underway. With regard to the second part of the recommendation, it considered that the legal provisions on publicity of court proceedings, the update of the random allocation system, the development of e-justice tools and the continued efforts to digitalise court archives were encouraging, but more progress was required to improve the sustainable transparency and accessibility of information on judicial activity in practice.

46. The authorities of the Republic of Moldova now report that the statistics on cases adjudicated within one, two, three years or more, show, a positive evolution of court efficiency².

47. GRECO notes the continuous positive trends in the statistics, seems to indicate reduction in the lengths of court proceedings. However, the information provided is rather limited and does not make it possible for GRECO to conclude that additional steps have indeed been taken as regards the legal framework and the court practice to adjudicate judicial cases in a reasonable time and to increase the transparency and accessibility of information available to the public on judicial activity. GRECO

² Number of pending cases for 1 year, 2 years and 3 years at the end of 2020 and at the end of the 1st semester 2021.

	Number of pending cases less than 1 year	Number of pending cases between 1 year and 2 years	Number of pending cases between 2 years and 3 years
Supreme Court of Justice			
End of 2020	1 384	270	5
End of 1 st sem. 2021	622	184	12
Courts of Appeal			
End of 2020	3 069	694	79
End of 1 st sem. 2021	1 151	340	38
First instance courts			
End of 2020	21 721	10 739	2 504
End of 1 st Sem. 2021	9 515	5 883	1 621

underlines the necessity of strengthening the institutional and regulatory framework in practice to secure the continuous effects of the changes that have taken place recently.

48. GRECO concludes that recommendation x remains partly implemented.

Recommendation xiii.

49. *GRECO recommended that the legal and operational framework for the disciplinary liability of judges be revised with a view to strengthening its objectivity, efficiency and transparency.*
50. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. GRECO noted that the revised disciplinary system was operational and that the subsequent decisions taken were made public. However, it could not conclude from the information provided that the Disciplinary Board's decisions included adequate reasoning.
51. The authorities of the Republic of Moldova now reiterate the information provided in the previous situation report that the disciplinary system for judges is operational. They also report that the Law on the disciplinary liability of judges was amended in November 2020³ to introduce the definition of intention and gross negligence to initiate disciplinary procedure against judges upon request of the Governmental Agent (before the European Court of Human Rights) based on judgement by the ECHR. They also indicate that the SCM has proposed amendments to various laws for improving the framework of the disciplinary liability of judges, which have been forwarded to the Ministry of Justice.
52. GRECO notes the authorities' intentions to improve the legal and operational framework for disciplinary liability of judges, which has partly been concretised both in the legal framework and in practice. It encourages the authorities to pursue such efforts so that tangible and fully demonstrated results can be shown, namely regarding the adequate reasoning of decisions, and with the adoption of new legislation, proposed by SCM.
53. GRECO concludes that recommendation xiii remains partly implemented.

Corruption prevention in respect of prosecutors

Recommendation xiv.

54. *GRECO recommended (i) expressly notifying all prosecutors in writing that verbal instructions given to hierarchically subordinate prosecutors are not binding, unless they are confirmed in writing, including in such notifications the procedures to be followed in providing timely confirmations and (ii) ensuring that all hierarchical interventions regarding a case are properly documented in practice.*
55. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. GRECO considered that the first part of the recommendation was implemented satisfactorily as the Prosecutor General had issued a written notification which clarified that verbal instructions are not binding unless confirmed in writing. As for the second part of the recommendation, GRECO was waiting for amendments to be adopted so as to ensure that all hierarchical interventions regarding a case are properly documented.

³ Law N0 205 of 26 November 2020.

56. The authorities of the Republic of Moldova now report that on 17 September 2021, the Prosecutor General issued an Order⁴ on the role and responsibilities of the chief prosecutors of the subdivisions of the Prosecutor General's Office, specialised and territorial prosecutor's office in leading and carrying out criminal investigations providing *inter alia* a procedure of documentation of all hierarchical interventions in individual cases. This binding instruction sent to all prosecutors provides for a strict mechanism of verification as it foresees a specific register for documenting all hierarchical interventions in every case to be kept by every prosecutor's office.
57. GRECO takes note of the new binding Order by the Prosecutor General aimed at ensuring that all hierarchical interventions regarding a case are properly documented, which is in line with the expectations of the second part of the recommendation.
58. GRECO concludes that recommendation xiv has been implemented satisfactorily.

Recommendation xv.

59. *GRECO recommended that appropriate measures be taken to ensure that the composition and operation of the Superior Council of Prosecutors be subject to appropriate guarantees of objectivity, impartiality and transparency, including by abolishing the ex officio participation of the Minister of Justice and the President of the Superior Council of Magistracy.*
60. It is recalled that in the Second Compliance Report, the recommendation was partly implemented. GRECO noted that the composition of the Superior Council of Prosecutors (SCP) had been increased to 15 members, including two *ex officio* members (the Ombudsman and the President of the Bar) and one member appointed by the Government, eight non-prosecutor members and five prosecutors elected by their peers. However, it regretted that the Minister of Justice remained an *ex officio* member, together with the President of the Superior Council of Magistracy (SCM).
61. The authorities of the Republic of Moldova now report that on 24 August 2021 Parliament adopted amendments to the Law on the Prosecutor's Office⁵ which limits the number of SCP's members to 12 (instead of 15) by excluding the Prosecutor General, the President of the Bar Association, and the Head Prosecutor of the Autonomous Region of Gagauzia, and reducing the age limit to 65 in the SCP. The Minister of Justice and the President of the SCM remain *ex officio* members and their positions are reinforced within the SCP as the interim Minister of Justice and interim President of the SCM can participate on a regular basis in the SCP as full members, with all the rights and competences of the other members. The authorities also indicate that, in line with the amended legislation, the mandate of a lay member of the SCP appointed from the civil society came to an end as he had reached the age of 65. However, in the review (introduced by the Prosecutor General) before the Constitutional Court the amendment provided for the age ceiling of 65 was rejected by the Constitutional Court. Moreover, the authorities refer to the technical paper "*Review of the composition and operation of the SCP*" elaborated within the framework of the Council of Europe's Project "Action against corruption" which reiterates that the *ex officio* membership within the SCP of the Minister of Justice and the President of the SCM (together with the presence of the Ombudsman) should be abolished.
62. GRECO takes note of the information provided and regrets that the amendments to the relevant legislation have not been used as an opportunity to abolish the *ex officio* membership of the Minister of Justice and the President of the SCM in the SCP, having

⁴ Order N° 56/61.

⁵ Law N° 102 of 24 August 2021.

instead reinforced their position, as they can take part, *inter alia*, in the decisions regarding the career, promotion and disciplinary liability of all categories of prosecutors. It recalls that the composition of the SCP, whatever the changes in this composition are, must guarantee the objectivity, impartiality and transparency of the SCP in fulfilling its tasks. GRECO cannot assess from the recent modifications of the legislation that this recommendation has been implemented more than to some extent.

63. GRECO concludes that recommendation xv remains partly implemented.

Recommendation xvii.

64. *GRECO recommended (i) that the Code of Ethics and Conduct be communicated effectively to all prosecutors and complemented by further written guidance on ethical questions – including explanations, interpretative guidance and practical examples – and regularly updated; (ii) that dedicated training of a practice-oriented nature and confidential counselling within the prosecution service be provided for all prosecutors.*
65. It is recalled that in the Second Compliance Report, this recommendation was partly implemented. With respect to the first part of the recommendation, GRECO was waiting for the written guidance on for the Code of Ethics to be elaborated, adopted and communicated to all prosecutors. As regards the second part of the recommendation, GRECO appreciated the training that had been provided by the National Institute of Justice (NIJ) on ethics to prosecutors, as well as the amendments to the Code of Ethics setting up a system of confidential counselling for prosecutors by Ethics Advisers, which, however, remained to be made operational.
66. The authorities of the Republic of Moldova now report that on 17 September 2021 the SCP sent a written notification to all prosecutors containing the Guidelines to the Code of Ethics of Prosecutors (563 chapters) aimed at enforcing the Code and solving potential ethical dilemmas, containing explanations and practical examples (including the Disciplinary Board and Prosecutor’s Inspection case-law), as well as the settlement of confidential counselling. These Guidelines were supported by the Council of Europe’s project: “Action against Corruption in Moldova”.
67. The authorities also reiterate that the NIJ has organised on a regular basis initial and in-service trainings on a practice-oriented nature related to ethics and deontology within the framework of its training curricula. In 2020-2021, 60 prosecutors have been trained on management of ethical and professional conduct through two training sessions. Moreover, in September-October 2021, within the framework of the Council of Europe’s “HELP” programme, an e-learning course on Ethics for judges, prosecutors and lawyers was organised, in partnership with NIJ. On 14 September 2021, 74 judges and prosecutors attended remotely this course. NIJ has embedded the course in the initial training programme as from 2021. The course will be made available for self-learning purposes for other groups of prosecutors.
68. GRECO notes that guidelines, supported by the Council of Europe’s project “Action against corruption in Moldova”, have been elaborated and distributed to all prosecutors on the implementation of the Code of Ethics of Prosecutors. The measures taken in this respect are in line with the recommendation. GRECO also notes that regular initial and in-service trainings of a practice-oriented nature have been organised on ethics and deontology by NIJ, as well as confidential counselling. This concerns a growing number of prosecutors and is due to be pursued, so that all prosecutors are regularly trained on this issue and be offered the opportunity of individual confidential counselling.

69. GRECO concludes that recommendation xvii has been implemented satisfactorily.

Recommendation xviii.

70. *GRECO recommended that additional measures be taken in order to strengthen the objectivity, efficiency and transparency of the legal and operational framework for the disciplinary liability of prosecutors.*

71. It is recalled that in the Second Compliance Report, the recommendation was not implemented, as there was no progress in reviewing the legal and operational disciplinary framework for prosecutors.

72. The authorities of the Republic of Moldova now report that within the framework of the Council of Europe's project "Action against corruption", a technical paper⁶ on review of the national framework governing the disciplinary liability of prosecutors advised to amend the existing legislation on the activity of the Public Prosecution Service. They also indicate that the decisions on disciplinary liability in respect of prosecutors of the Disciplinary and Ethics Board, as well as the decisions of the SCP on the challenge of the Disciplinary and Ethics Board's decisions, have been anonymised and published on the web site of the Disciplinary and Ethics Board.

73. The authorities also indicate that in 2020 the Inspection of Prosecutors examined 256 complaints (199 from citizens, 52 by the heads of the specialised subdivisions of the General Prosecutor's Office and 5 *ex officio*), and the Disciplinary and Ethics Board examined 76 disciplinary procedures regarding 50 prosecutors, among which 18 were sanctioned (11 warnings, 5 reprimands, 1 reduction of salary, 1 release from office). In 220, the Board examined 111 appeals against decisions of the Inspection (106 appeals were rejected and 5 submitted to the Inspection for additional investigations). In 27 cases the Board's decisions were challenged before the SCP, resulting in the end of the procedure (2 cases), an aggravation of the sanction (8 cases), a decrease in the sanction (1 case), a withdrawal of the procedure with the termination of the term of office (1 case) and a withdrawal following the expiration of the limitation period for engaging disciplinary liability (2 cases).

74. GRECO takes note of the figures provided by the authorities which indicate that the system for the disciplinary liability of prosecutors is operational. It also notes that the decisions on disciplinary liability of prosecutors are now published on the web site of the Disciplinary and Ethics Board. This goes in the right direction for strengthening the objectivity and transparency of this operational framework. However, the legal framework for this system has not been amended so far.

75. GRECO concludes that recommendation xviii has been partly implemented.

III. CONCLUSIONS

76. **GRECO concludes that the Republic of Moldova has now implemented satisfactorily or dealt with in a satisfactory manner only six of the eighteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, nine have been partly implemented and three have not been implemented.

⁶ Technical paper "Review of the national framework governing the disciplinary liability of prosecutors in the Republic of Moldova" (<https://rm.coe.int/0900001680a28bb5>).

77. More specifically, recommendations v, xi, xii, xiv, xvi and xvii have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, iv, vii to x, xiii, xv and xviii have been partly implemented and recommendations ii, iii and vi have not been implemented.
78. Concerning members of parliament, too many laws are still adopted without adequate timeframes and consultation and at accelerated speed. The parliamentary website has not been updated and the unified e-Legislation is not operational yet. A code of conduct for parliamentarians remains to be adopted, including rules for various situations of conflicts of interest, as well as a Code of Parliamentary Rules and Procedures. Clear and objective criteria on lifting parliamentary immunity are still not in place. Rules remain to be introduced on how parliamentarians can interact with third parties. The National Integrity Authority (NIA) has developed controls of the declarations of assets and personal interests of parliamentarians (as well as of judges and prosecutor) but the relevant legislation aimed at strengthening its independence and effectiveness has not been adopted yet; it remains understaffed and not adequately trained. A global strategy for NIA is still lacking.
79. As far as judges are concerned, the previous draft law providing for a general vetting of judges has been abandoned, as such large-scale evaluations would not be compatible nor proportionate with the requirement to check the integrity of judges before appointment/promotions. However, an external assessment of all judges (and prosecutors) and of the members of the Superior Council of Magistracy (SCM) (and Superior Council of Prosecutors (SCP), as well as a number of officials of the anticorruption bodies), is still envisaged to restore confidence and enhance quality of justice. This exercise should be proportionate and compatible with the requirements of judicial independence. Essential progress has been made with the adoption of the new constitutional framework for a twelve-member composition of the SCM, including six judges elected by their peers and six lay members elected by Parliament. This framework must now be completed by appropriate legislation to organise fair and transparent criteria and procedures for these elections. In addition, more needs to be done to enhance the transparency in practice of judicial activity, judgments and decisions, including the SCM, and to strengthen the objectivity of the disciplinary procedures and measures against judges.
80. As regards prosecutors, verbal instructions to prosecutors are now to be confirmed in writing, and progress has been made to ensure that all hierarchical interventions regarding a case are properly documented. In spite of recent amendments to the legislation, the Minister of Justice and the President of the SCM remain *ex officio* members of the SCP, contrary to GRECO's recommendation. Written guidance to the Code of Ethics of prosecutors have been developed, and a system of confidential counselling has been set up. Regular trainings of a practice-oriented nature are organised on ethics and deontology, concerning a growing number of prosecutors. Finally, a system for the disciplinary liability of prosecutors is operational, and the decisions on disciplinary liability of prosecutors are published, which goes in the right direction. However, the legal framework for this system remains to be strengthened.
81. In view of the above, GRECO concludes that the current low level of compliance with the recommendations remains "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to continue 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 Republic of Moldova to provide a report on the progress in implementing the pending recommendations (i.e. recommendations i to iv, vi to x, xiii, xv and xviii) as soon as possible, however – at the latest – by 31 December 2022.

82. In addition, in accordance with Rule 32, paragraph 2, ii (a), GRECO invites its President to send a letter – with a copy to the President of the Statutory Committee – to the Head of Delegation of Moldova drawing the attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
83. Finally, GRECO invites the authorities of the Republic of Moldova to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.