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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

UKRAINE

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

I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Ukraine to implement the outstanding recommendations issued in the Fourth Round Evaluation Report on Ukraine (see paragraph 2), which deals with “Corruption prevention in respect of members of parliament, judges and prosecutors”.
2. The [Fourth Round Evaluation Report on Ukraine](#) was adopted at GRECO’s 76th Plenary Meeting (23 June 2017) and made public on 8 August 2017, following authorisation by Ukraine. The corresponding [Compliance Report](#) was adopted by GRECO at its 84th Plenary Meeting (6 December 2019) and made public on 26 March 2020, following authorisation by Ukraine.
3. As required by GRECO’s Rules of Procedure, the authorities of Ukraine submitted a Situation Report containing information on measures taken to implement the recommendations. This report was received on 18 August 2021 and served, together with additional information submitted by the authorities, as a basis for the Second Compliance Report.
4. GRECO selected Sweden (in respect of parliamentary assemblies) and Armenia (in respect of judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Monika OLSSON, on behalf of Sweden, and Ms Kristinne GRIGORYAN, on behalf of Armenia. They were assisted by GRECO’s Secretariat in drawing up this Second Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO addressed 31 recommendations to Ukraine in its Evaluation Report. In the subsequent Compliance Report, GRECO held that recommendation xx had been implemented satisfactorily, recommendations xi, xvi, xxi and xxii had been dealt with in a satisfactory manner, recommendations i-vi, viii, xiv, xv, xviii, xxiv, xxv, xxvii, xxviii and xxxi had been partly implemented and recommendations vii, ix, x, xii, xiii, xvii, xix, xxiii, xxvi, xxix and xxx had not been implemented. Compliance with the seven outstanding recommendations is examined below.

Recommendation i.

6. *GRECO recommended (i) developing appropriate measures, including of a regulatory nature to enhance the independence and impartiality of the National Agency on Corruption Prevention (NACP) decision-making structures; and (ii) laying down detailed, clear and objective rules governing NACP’s work, in particular, its investigative tasks, in order to fully secure transparency and accountability in practice of NACP action.*
7. GRECO recalls that this recommendation was partly implemented in the Compliance Report. In particular, regarding the first part, the new law had been adopted to streamline decision-making process in the NACP, set out transparent recruitment procedures, upgrade control mechanisms (internal control and biennial audit), and provide direct access to databases and automatic verification of asset declarations. While it had been noted that these were positive changes, they still needed to be implemented in practice. As to the second part, a series of new rules regarding the functioning of the NACP had been adopted¹ and efforts had been made to enhance transparency of the NACP’s activities. However, NACP’s cooperation with the Public

¹ E.g., the procedure for drawing up protocols for administrative offences, verification of asset declarations etc.

Council had been considered insufficient and more efforts were required to ensure adequate implementation of the NACP's communication strategy in practice.

8. With respect to the first part of the recommendation, the Ukrainian authorities now report that, as per the amended Law on Prevention of Corruption (LPC), open and competitive procedure has been conducted to select the new Head of the NACP. Out of 32 initial applications, the Competition Commission short-listed eight candidates and conducted interviews with them, broadcast live on the Internet. As a result, a new Chairperson of the NACP has been appointed on 15 January 2020. The authorities also point out that legislative amendments to the LPC adopted in October 2019 also aimed at enhancing the independence of the NACP by introducing a prohibition of interference in the activities of the NACP from the state bodies of different levels, or their officials, and establishing as "illegal" any instructions or requirements issued to the NACP officials or employees, not envisaged by legislation.
9. An automated distribution of audit responsibilities has been introduced² in the NACP³. Further, on 11 March 2020, Internal Control Department⁴ has been set up with the purpose of ensuring integrity of the NACP employees, reporting directly to the Chairperson. As of the beginning of 2020, the NACP have been provided full access to all state registers and databases necessary for its tasks⁵. The first external independent assessment of activities of the NACP is expected in early 2022 and will cover the activities of the NACP during the period of 1 January 2020 to 31 December 2021⁶. Should the assessment conclude that the NACP activity was "ineffective", this would be an unconditional ground for the resignation of the NACP Chairman (as per Article 5, paragraph 9, part 5 of the LPC).
10. As regards the second part of the recommendation, the authorities now report that on 30 December 2020, the NACP approved the Anti-Corruption Programme for 2021-2022. In the course of 2020-2021, several NACP orders have been adopted on its general operations⁷. A number of rules were also adopted to regulate verification of declarations by public officials, financial control of staff of the intelligence and counter-intelligence state services, protection of anonymous communication channels for reporting possible corruption, provision to the NACP of information contained in the state tax register, model regulation on authorised division for the prevention and combating corruption etc. In the same period, new rules have been adopted regarding checks of financial statements of political parties and cooperation with other state institutions.

² Following the adoption of amendments to the LPC through Law no. 524-IX of 4 March 2020 and the Order of the NACP No. 231/20 of 29 May 2020, updated by the Order of the NACP No. 143/21 of 3 March 2021.

³ Covering inspections of the organisation of work to prevent and detect corruption in government bodies; legal entities of public law and legal entities specified in Article 62, part 2 of the LPC; checks of declarations of public servants and persons equated to them; special inspections conducted in accordance with Article 56 of the LPC; verification of reports of political parties on property, income, expenses and financial obligations; inspections on issues related to the powers of internal control

⁴ The competences of the Internal Control Department include supervision of the implementation by the employees of legislative acts relating to ethical conduct, conflict of interests and other restrictions envisaged by the LPC; supervision of the timeliness, completeness and verification of declarations by the officials of the NACP; inspection of employees for integrity and lifestyle monitoring; verification of appeals received indicating involvement of NACP employees in the commission of offences; internal investigation in respect of NACP employees; special checks on applicants to positions in the NACP; protection of NACP employees reporting commission of illegal actions or omissions within the Agency.

⁵ The authorities provide several examples of measures taken in response to violations established by the NACP as the result of inspections, including in respect of the President of Ukraine, a member of Parliament, some political parties, senior management of a national enterprise, as well as measures taken to protect whistle-blowers.

⁶ The assessment will be carried out in accordance with the criteria for performance assessment of the NACP and the methodology for conducting such assessment, both approved by the Cabinet of Ministers' Resolution No. 458 of 20 May 2020. These documents define the scope of the performance assessment and set out indicators allowing to evaluate whether the activities of the NACP are to be considered "ineffective".

⁷ Notably, on automated distribution of audit responsibilities, on conducting anti-corruption expertise, on disclosure of public information, on conducting inspections on preventing and detecting corruption etc.

11. The practical implementation of existing regulations is reflected in the NACP annual reports for 2019 and 2020, as well as NACP work plans for 2020 and 2021. The draft annual reports for 2019 and 2020 were placed on the NACP's website and subsequently presented to the Cabinet of Ministers and Parliament. The authorities also refer to the opinion of the Public Council on the 2020 annual report of the NACP, giving a globally positive assessment to the NACP's work.
12. Regarding the selection of members of the Public Council of the NACP, the authorities submit that on 8 April 2020, the Cabinet of Ministers amended its resolution of 20 November 2019 with the purpose of enhancing transparency and impartiality of the competitive procedure for selecting members of the Public Council. Following the call for competition launched on 28 April 2020, an open popular vote for candidates was conducted online on 3 June 2020, forming the new composition of the Public Council. The authorities report that since the new composition of the Public Council has been put in place, cooperation between the NACP and the former significantly improved⁸.
13. Finally, several measures are reported to enhance NACP's communication with the general public, including updating and redesigning the portal and the website of the Agency, conducting surveys on the state of corruption and raising awareness of the NACP and its activities.
14. GRECO notes, regarding the first part of the recommendation, the additional measures taken to appoint the new Head of the NACP through an open and competitive procedure, introduce an automated distribution of audit responsibilities, provide the NACP with access to all of the relevant databases and set up the Internal Control Department responsible for ensuring integrity within the NACP. These measures demonstrate tangible progress as regards practical implementation of legislative amendments assessed in the previous compliance report.
15. With respect to the second part of the recommendation, GRECO notes that considerable improvements were made regarding the modalities of selecting members of the Public Council and that the cooperation between the NACP and the Council has apparently improved. Further, GRECO welcomes the public consultations held in connection with the draft Anti-Corruption Strategy for 2020-2024 and other steps taken to better inform the public of the NACP activities. Overall, the recently implemented measures in relation to both parts of this recommendation, in conjunction with steps reported during the previous compliance report, appear to meet the requirements of the recommendation. GRECO encourages the Ukrainian authorities to ensure their consistent implementation in practice.
16. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

Recommendation ii.

17. *GRECO recommended that appropriate regulatory, institutional and operational measures be taken to ensure effective supervision of the existing financial declaration requirements, including, but not limited to the enactment of by-laws allowing the NACP to perform its verification tasks; the adoption of an objective lifestyle monitoring procedure; the introduction, without delay, of automated cross-checks of data and interoperability of databases, with due regard for privacy rights; and the institution of appeal channels for sanctions imposed.*

⁸ In particular, reference is made to the Public Council's participation in competitions for vacant positions in the NACP, development of regulatory acts, preparation of the Anti-Corruption Strategy for 2020-2024 etc.

18. GRECO recalls that this recommendation was considered partly implemented in the previous compliance report. Legal and regulatory measures had been taken to improve control of financial declarations and to provide for appeal channels, but an objective “lifestyle monitoring procedure” had still been lacking. Several novelties had been introduced⁹, but reservations had remained concerning the effective operation of the system in practice¹⁰. To sum up, improvements made in legislation needed to be coupled with practical measures addressing the deficiencies of the operation of the system of declarations and their supervision in practice.
19. The authorities now report that on 24 December 2020 the Chair of the NACP approved the Procedure for conducting integrity checks and monitoring the lifestyle of subjects covered by the scope of monitoring, including employees of the NACP¹¹. Earlier, in March 2020, the NACP developed methodological recommendations on the procedure for monitoring the lifestyle, which define the monitoring procedure. The authorities refer to examples from May 2021 when the materials collected and transferred by the NACP in the course of monitoring the lifestyle of two members of Parliament, led to the Special Anti-Corruption Prosecutor’s Office (SAPO) filing claims for civil confiscation of unjustified assets to the Supreme Anti-Corruption Court, one of which has already been upheld by the High Anti-Corruption Court.
20. The authorities also put forward that in 2020 the NACP updated regulations¹² regarding full inspections of declarations and automated distribution of declarations for verification to the NACP staff¹³. However, following the Constitutional Court Decision No. 13-R/2020¹⁴ of 27 October 2020, the NACP has been deprived of some of its functions regarding collecting and supervising asset declarations. To remedy the consequences brought about by the Constitutional Court Decision No. 13-R/2020, amendments were adopted to the LPC by Parliament in 2021, following which the NACP approved new procedures for verification of declarations, which is said to be analogous to the one approved in 2020, that is, the responsibility for full verification of declarations remains assigned to NACP officials, still based of random allocation¹⁵. According to the authorities, from January to October 2021, the NACP has initiated verifications of 1,220 declarations, of which a full verification has been completed in respect of 606 declarations.

⁹ Such as direct access of NACP to state registers and databases, automated processing of declarations, filling gaps in the scope of the reporting categories covered and expanding the reporting data.

¹⁰ In particular, the risk for hand-picking and manual processing of declarations remained high; malfunctioning and technical problems occasionally experienced by the e-declaration system continued to draw criticism, and allegations had been made regarding unlawful interference and limited interoperability with other databases.

¹¹ As approved by the Order of the NACP Chair No. 595/20.

¹² The latest regulation in this respect has been approved on 3 March 2021 (NACP Order No. 114/21). It is said to define the order of priority for selecting declarations for full verification as follows:

- availability of grounds for conducting a second full audit;
- occupation of a high position by the subject of declaration;
- indicator of the risk rating of declarations, which is determined in accordance with the rules of logical and arithmetic control of declarations;
- receipt of an application or notification of specific violations on the part of the declarant or a member of his family;
- identification of inconsistencies in the standard of living of the subject of the declaration and the property declared by him based on the results of the NACP lifestyle monitoring.

¹³ The procedure identifies specific actions of the authorised person of the NACP during the audit, determines the methods of conducting different audit components, establishes that in cases of new information the NACP may repeat a full verification of the declaration concerned, provides that financial control mechanism will also verify compliance with requirements relating to gifts and post-employment restrictions, envisages checks into unjustifiably acquired assets, and determines that within 10 working days after the completion of the audit, the authorised person of the NACP must prepare an audit certificate and publish it on the NACP website.

¹⁴ In this decision, the CCU declared as unconstitutional some of the provisions of the Law “On the Prevention of Corruption”, including NACP’s authority to verify the financial declarations submitted by public officials, as well as Article 366-1 of the CC, criminalising the submission of false declarations / failure to submit a declaration. The NABU, reportedly, had to drop over a hundred cases initiated for the offences related to asset declarations.

¹⁵ Thus, eliminating manual distribution of declarations to be checked and minimise the risk of possible abuse.

21. In addition, to regulate the automated data verification, in 2020 the NACP updated a dedicated programme entitled "Logical and arithmetic control system" (LAC), which scans data contained in all declarations¹⁶. Since its launch on 1 September 2020, the LAC analysed two thousand declarations per week, reaching a 100 000 declaration-per-month capacity by the end of November 2020. The authorities report that by May 2021, some 950 000 declarations have been scanned through the LAC. Moreover, the practical experience gathered from the operation of the LAC led to updating, in 2021, the assessment indicators and checklists.
22. Finally, the authorities report that following updating the declarations register in 2020, the data contained in the register has been transferred to NACP's own servers, located in the dedicated data protection centre, providing an improved data security and a smoother operation of the system. The authorities also confirm that the NACP has been given with full access to all 16 electronic registers and databases for cross-checking declarations in automated mode.
23. GRECO takes note of the information provided. The regulatory and practical measures taken by the authorities during the reporting period represent tangible progress in the implementation of this recommendation. GRECO notes that the adverse consequences for the effectiveness of the anti-corruption system in Ukraine, brought about by the Decision No.13-R of the Constitutional Court of 27 October 2020¹⁷, have been remedied to some extent by legal amendments to the Law on Prevention of Corruption, adopted in December 2020, notably by restoring the essential part of the NACP's remit and functions relating to the prevention of corruption¹⁸. That said, the competences of the specialised anti-corruption bodies have been subject to several substantial revisions in the last two years, and the system of verifications of asset declarations in its current form has been established only very recently. The efficiency of this system is yet to be tested through well-established practice. Further, no information has been provided concerning the appeal channels for sanctions imposed.
24. In view of the above, GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii.

25. *GRECO recommended ensuring that in practice, the NABU is granted proper and unhindered access a) to the complete asset declarations received by the NACP and b) in the framework of criminal proceedings started on the basis of such declarations, to all national and regional databases necessary for the proper scrutiny of asset declarations.*
26. It is recalled that this recommendation was partly implemented in the compliance report. New legal provisions had been adopted to allow NABU's full access to state registries containing asset declarations, specific bank account operations etc. Further, the NACP Guidelines preventing NABU from starting pre-trial investigations in cases of false declarations and illicit enrichment had been abolished. However, the

¹⁶ While analysing data in declarations, the LAC compares it with information contained in 16 state registers. On the basis of this analysis carried out through an automated process, the LAC ranks declarations using a risk-oriented filter and enables identifying declarations that should undergo full verification, thus excluding human intervention in the process.

¹⁷ GRECO refers to the extensive, substantiated criticism of the Constitutional Court's reasoning, and the need to ensure the effectiveness of national mechanism to combat corruption, expressed by the European Commission for Democracy through Law (Venice Commission) in its Urgent Joint Opinion of 11 December 2020 on the Legislative Situation regarding anti-corruption mechanisms, following Decision N° 13-R/2020 of the Constitutional Court of Ukraine, issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 9 December 2020. The full text of the Urgent Opinion can be consulted via the following link: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)038-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)038-e)

¹⁸ In particular, through amendments to Articles 11, 12, 13, 13¹ and 14 of the LPC.

system was new at the time, and GRECO had wished to re-assess the situation in light of the implementation of new provisions in practice.

27. The Ukrainian authorities now report that in the course of 2020-2021 several working meetings were conducted between the NACP and NABU to strengthen financial control over public officials.
28. Following the legislative amendments enabling NABU's access to the Unified State Register of declarations, the Joint NACP and NABU Order No. 134/19/130 of 1 November 2020 approved the procedure for access of NABU to the Register¹⁹. As regards ensuring NABU's access to national and regional databases and specific information about bank account operations, such possibility has been provided²⁰ following amendments to several legal acts²¹ adopted in October 2019. However, the NABU draws attention to the fact that the recipient's account number is still not being shared²² with it by the National Bank²³. The authorities report that a unified register of bank accounts of individuals and legal entities which, in their view, would increase overall transparency of the financial system and facilitate financial investigations for identifying assets obtained through criminal offences, has still not been established. To sum up, the authorities take the view that at present NABU has effective access to all databases at national and regional levels, necessary for the proper verification of declarations.
29. GRECO takes note of the information provided. It would appear that practical impediments to cooperation between the NACP and NABU regarding checks of asset declarations and follow up to be given in cases of violations have been removed, and that interaction between the two anti-corruption bodies has improved. GRECO also notes that NABU has been provided with access to national and regional databases necessary for the proper scrutiny of asset declarations. However, some difficulties remain in place, notably, regarding NABU's direct access to National Bank's database in respect of recipients' account numbers. Such access could be instrumental, for instance, to cross-check the accuracy of account information provided in declarations. It follows that the second part of this recommendation has not been fully addressed.
30. In view of the above, GRECO concludes that recommendation iii remains partly implemented.

¹⁹ Initially, NABU detectives could access the Register remotely, but as of the end of 2020, access has become possible only through the use of a Qualified Electronic Signature (QES), which NABU is yet to purchase. Thus, for the time being, NABU's detectives can only access the Register from the premises of the NACP, which is considered insufficient for fully-fledged financial investigative work.

²⁰ In particular, the amended Article 62 of the Law on Banks and Banking Activities envisages that information about legal entities and individuals containing bank secrecy, including in cases concerning the identification of unjustified assets and the collection of evidence of their unjustifiability, should be provided to NABU upon written request and may cover accounts, deposits, transactions, transactions of a specific legal entity, individual business entity or individual for a specific period of time, indicating counterparties. In addition, pursuant to Article 62, part 4 of the law "On Banks and Banking Activities", as amended, the ban on providing information about customers of another bank does not apply to cases when such information is provided in accordance with the requirements of paragraphs 3, 31 and 32 of Article 62 of this Law.

²¹ Law No. 263-IX of 31 October 2019, entitled "On amendments to certain legislative acts of Ukraine concerning confiscation of illegal assets of persons authorized to perform functions of the state or local self-government, and punishment for the acquisition of such assets".

²² The authorities point out that all persons subject to asset and interest declarations must provide all their bank account details, including those outside of Ukraine.

²³ According to the Resolution № 13 of the Board of the National Bank of Ukraine (31 January 2020) entitled "on approval of amendments to the rules of storage, protection, use and disclosure of bank secrecy" information regarding operations on the account of a legal entity, individual – business entity or individual (hereinafter referred to as the target account), the information about the payee subject to disclosure includes, in particular, "recipient bank code", "recipient bank", "recipient name", "recipient number/code", but not the actual account number. In spite of NABU's appeals to the National Bank to bring the rules for storing, protecting, using and disclosing bank secrets (of 14 July 2006) into compliance with the amended legislation, the National Bank has not done so.

Recommendation iv.

31. *GRECO recommended (i) further developing the rules applicable to the acceptance of gifts by members of parliament, judges and prosecutors, in particular, by lowering the threshold of acceptable gifts; providing for more precise definitions to ensure that they cover any benefits including those in kind; clarifying the concept of hospitalities which may be accepted; (ii) establishing internal procedures for the valuation and reporting of gifts, and return of those that are unacceptable.*
32. It is recalled that this recommendation was partly implemented in the compliance report. The thresholds for permissible individual gifts and their permissible aggregated annual value had remained too high and was still tied to the cost of living. While some clarifications on the acceptance of gifts had been developed, rules on in-kind benefits and the concept of hospitality had still not been clarified. Further, it had been noted that a requirement to report gifts applicable across the public service was in place, but its practical implementation in respect of judges and MPs had been lacking.
33. Regarding the first part of the recommendation, the authorities of Ukraine maintain that the cost of living (subsistence minimum) is a measurable and flexible economic indicator and that it's thus justified to use it in determining maximum thresholds of acceptable gifts. They also state that the NACP's recent practice did not reveal the link between gifts allowed and the subsistence minimum as problematic. Further, as to the concept of generally accepted ideas of hospitality, the authorities refer to the definition of a gift contained in Article 1 of the LPC, which, inter alia, includes "an advantage provided/received free of charge, or at a price lesser than the minimum market price"²⁴, reiterated in the methodological recommendations developed by the NACP (see paragraph 19 above).
34. As to the second part of the recommendation, the authorities inform that no new developments have taken place since the previous compliance report in this respect regarding MPs and judges.
35. GRECO takes note of the information provided. Maintaining the subsistence minimum as an indicator for determining maximum value of acceptable gifts was considered insufficient in the Evaluation Report, and remains as such. The authorities do not demonstrate any action taken to implement this part of the recommendation. Further, no new and more precise definition has been introduced to clarify the concept of "hospitalities which may be accepted" in a coherent manner. Finally, no measures have been taken to establish internal procedures for the valuation and reporting of gifts applicable to MPs and judges, similar to those already in place in respect of prosecutors.
36. In view of the above, GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

37. *GRECO recommended that the NACP, in close coordination with Parliament, the judicial and prosecution services, further develops communication and advisory channels with the latter and prepares tailored guidance on implementation of the Law on Prevention of Corruption, as applied to each of the respective professions.*

²⁴ The authorities also refer to explanatory dictionaries of Ukrainian language for nuances of the term "advantage", and the unofficial interpretation of "generally accepted ideas about hospitality" contained in the scientific and practical comments to the LPC.

38. GRECO recalls that this recommendation was partly implemented in the compliance report; some measures had been taken to improve cooperation with parliamentary and judicial authorities, but no information had been provided on the elaboration of tailored guidance for MPs, judges and prosecutors.
39. The Ukrainian authorities now report that in April 2021, the NACP presented new Methodological recommendations on the application of certain provisions of the LPC regarding the prevention and resolution of conflicts of interest and compliance with anti-corruption restrictions. These recommendations are said to be based on the NACP experience regarding the most persistent difficulties in the application of anti-corruption legislation in respect of public servants, including MPs, judges, and prosecutors.
40. GRECO notes the information provided. The adoption of Methodological recommendations on the application of the LPC provisions, addressed to MPs, judges and prosecutors is a welcome development. These recommendations contain chapters focussing *inter alia* on conflicts of interest, gifts, parallel activities, disciplinary, administrative and criminal liability for violations of anti-corruption provisions, also targeting specific categories of public officials. GRECO encourages the Ukrainian authorities to ensure broad dissemination of this document and raise awareness of it among all public officials concerned.
41. In view of the above, GRECO concludes that recommendation v has been dealt with in a satisfactory manner.

Corruption prevention in respect of members of parliament

Recommendation vi.

42. *GRECO recommended ensuring that all legislative proposals are processed with an adequate level of transparency and consultation, notably by (i) safeguarding inclusiveness of parliamentary committee work both on paper and in practice, including through public consultations and expert hearings, as well as adequate timeframes; (ii) introducing precise rules regarding the fast-track legislative procedure in Parliament and ensuring that it is applied only in exceptional and duly justified circumstances.*
43. GRECO recalls that this recommendation was partly implemented in the compliance report. Some measures had been taken to enhance transparency, and a positive general trend had been observed in various committees in this respect. Nonetheless, the time-frames had not been increased and the authorities were encouraged to systematically ensure adequate level of transparency and consultation. A considerable number of important draft laws had still gone through the “fast-track” procedure, while the use of such a procedure should have been limited to exceptional and duly justified circumstances.
44. The Ukrainian authorities now state that to enhance transparency and provide more information to the general public, the work plan of the Verkhovna Rada for 2021 has been published on its website. It is added that meetings of the Verkhovna Rada, as well as its Committees, are webcast online. In addition, seven parliamentary committees are said to participate in the implementation of the Memorandum of Understanding concluded in October 2020 between the Verkhovna Rada, the Eastern Europe Foundation and the USAID with the objective to assist Parliament in holding committee hearings, public consultations and broader interaction with stakeholders. The authorities also refer to a number of draft laws aiming to promote transparency and public consultation as regards draft legislation. It is planned to publish

compositions of all the investigative commissions, the Committees and contact details of all the deputies on the Verkhovna Rada website.

45. As to the second part of the recommendation, the authorities refer to existing legislation setting out rules for “fast-track” legislative procedure, as well as the provisions on the *ad hoc* one-off deviations from regular legislative procedure, that were in place at the time of the adoption of the Evaluation Report. They also report that restrictions on “fast-track” procedure have been established through amendments to the Rules of Procedure of the Verkhovna Rada, adopted on 16 April 2020.
46. GRECO takes note of the information provided. It would appear that while overall transparency of legislative work in Parliament is increasing, practice remains inconsistent in this respect, including in the committees²⁵. Further, no measures have been reported to enhance time-frames for considering draft legislation, still limited to 30 days. GRECO notes that some restrictions on the use of fast-track procedures have been introduced in April 2020, but it is not clear to what extent these restrictions limit the use of the fast-track legislative procedure to exceptional and duly justified circumstances.
47. GRECO concludes that recommendation vi remains partly implemented.

Recommendation vii.

48. *GRECO recommended (i) that a code of conduct for members of Parliament be developed and adopted with the participation of MPs themselves and be made easily accessible to the public; and (ii) that it be coupled with detailed written guidance on its practical implementation (e.g. prevention of conflicts of interest when exercising the parliamentary function, ad-hoc disclosure and self-recusal possibilities with respect to specific conflict of interest situations, gifts and other advantages, third party contacts, etc.).*
49. It is recalled that this recommendation was not implemented in the Compliance Report. While the authorities referred to provisions in legislation, setting out ethical principles applicable to MPs, no code of ethics had been developed and no detailed guidance had been provided.
50. The Ukrainian authorities now report that that a draft law²⁶, aiming at strengthening MPs compliance with ethical standards, was registered in the Verkhovna Rada on 9 December 2019, and, on 7 September 2021, was included on the agenda of the sixth session of the Verkhovna Rada. In addition, reference is made to the provisions of the LPC concerning the issues covered by the present recommendation, which are also applicable to MPs, and the role of the NACP in providing recommendations and advice to different stakeholders, including MPs, regarding the implementation of the existing legislation. The authorities once again quote different legal provisions setting out principles of MPs behaviour and ethical conduct and maintain that the current legislation does not require adopting a separate code of conduct for the MPs.
51. GRECO takes note of the information provided. It appears that no tangible steps have been taken to implement this recommendation; no code of conduct nor any guidelines have been adopted.
52. GRECO concludes that recommendation vii remains not implemented.

²⁵ While some committees appear to demonstrate a higher degree of transparency and engagement with different stakeholders, others remain less prepared to involve other actors in their work.

²⁶ This draft law is entitled “on amendments to certain legislative acts on countering discrimination and discrimination and compliance with ethical standards by people’s Deputies of Ukraine”

Recommendation viii.

53. *GRECO recommended undertaking further appropriate measures to prevent circumvention of the restrictions of parliamentary members' engagement in entrepreneurial activities, not only in law, but also in practice.*
54. It is recalled that this recommendation was partly implemented in the Compliance Report. Some measures had been taken by the NACP to enhance MPs' compliance with existing incompatibility requirements (administrative proceedings by the NACP against MPs, and one court decision). However, much more needed to be done to tackle the problems underlying this recommendation, bearing in mind their magnitude, as described in the Evaluation Report (paragraph 84 of the Evaluation Report²⁷).
55. The Ukrainian authorities now report that on 29 April 2021, the Verkhovna Rada adopted several legislative amendments²⁸, which modified the provisions of Article 25 of the LPC, introducing 1) a *15-day time limit* for public officials, including MPs, to take actions aimed at terminating business activities; 2) *prohibiting such persons during this period* from conducting business activities etc. However, the authorities also refer to shortcomings in the recently adopted legislation, namely that an MP is only obliged to demonstrate that he/she "*carried out actions aimed at terminating business activities...etc.*" to be in conformity with the incompatibility restrictions, without actually terminating such activities. Further, according to the authorities, the law does not establish what constitutes "*actions aimed at terminating business activities*". In addition, the ban on involvement in business activity only lasts 15 days. To remedy these shortcomings, further draft amendments have been developed by the NACP to introduce in law an obligation that a person must "*take all necessary measures*" aimed at terminating business activities incompatible with the public office performed by that person and that in case of incompatibility, such a person be banned from participation in activities etc. in this regard. These draft amendments are not yet finalised by the Cabinet of Ministers.
56. As to inspections by the NACP regarding MPs' compliance with restrictions on engaging in entrepreneurial activities, the authorities report that in 2020 some 13 administrative offences regarding MPs have been detected, of which four were due to violations of restrictions on entrepreneurial activities. In the first half of 2021, no violations of restrictions on entrepreneurial activities have been detected.

²⁷ In particular, the GET was concerned to hear from different interlocutors that conflict of interest risks in the legislature have been identified as very high with 2/3 of parliamentarians indirectly - but actively - engaged in entrepreneurial activities. The legislative framework for incompatibility was circumvented as, in practice, MPs held corporate rights or/and interests in commercial companies, with the businesses registered under the names of related persons or other close relatives. One of the most pressing corruption issues in Ukraine was said to be the blurred line between the political elite and business interests, which critically undermined the democratic process.

²⁸ Law of Ukraine "On Amendments to Certain Laws of Ukraine on Improving Some Aspects of Declaration" No. 1443- IX. As part of these amendments, the authorities also refer to Article 36 devoted to preventing conflicts of interest. In particular, Article 36 now states that in respect of public officials, including MPs, shares of a joint-stock company located in Ukraine not exceeding 0,25 of the subsistence minimum established for 1 January of the accounting year, and collectively not exceeding 5% of the company's overall voting shares, are no longer subject to transfer to management of other persons. As explained by the authorities, the underlying reason for this amendment was the fact that since 1995 the so-called "voucher privatisation" in Ukraine resulted in millions of Ukrainians becoming minority owners of thousands of former state-owned enterprises. The cost of most such "vouchers" is insignificant and as a number of their owners later became persons exercising public functions, they were obliged to transfer the management of their corporate rights to other persons within 30 days after appointment (election) to the public office. In the vast majority of cases, transfer of management of such "vouchers" would be economically irrational, as the costs of their management would be much higher than their actual value. Hence, the authorities have amended Article 36, freeing public officials from transferring obligations, when the value of "vouchers" does not surpass the established threshold.

57. GRECO takes note of the information provided. It appears that further legislative and practical measures have been taken, but GRECO notes that several shortcomings remain in law, as recognised by the authorities, who intend to address them through further amendments, currently underway. GRECO has not been provided with the text of the recently adopted legislation and is therefore not in a position to assess its efficiency in preventing MPs' involvement in entrepreneurial activities, which is the core objective of this recommendation. The statistical information provided by the authorities suggests that the NACP continues detecting violations in this respect.
58. GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix.

59. *GRECO recommended the introduction of rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process.*
60. GRECO recalls that this recommendation was not implemented in the compliance report. Two draft laws submitted to Parliament at the time had been revoked.
61. The Ukrainian authorities now report that several draft laws²⁹ on lobbying, submitted to the Verkhovna Rada, had been returned to the author of the legislative initiative. On 31 March 2021, a revised draft law "on state registration of subjects of lobbying and lobbying in Ukraine" had been submitted to the Verkhovna Rada. Further, a Working Group³⁰ on developing proposals for regulating lobbying activities plans to draft a law on the regulation of lobbying and / or make gradual changes by introducing a register of lobbyists. In addition, another working group responsible for elaborating legislative regulation of the issue of lobbying has been set up on 20 October 2021 by the Rada Committee on Legal Policy. It is reported that work is currently in progress on a draft law on lobbying.
62. GRECO notes the information provided. It is regrettable that no tangible progress has been achieved to introduce rules regulating engagement of the MPs with lobbyists and other third parties. Some legal initiatives have been reported, but none of them have materialised yet.
63. GRECO concludes that recommendation ix remains not implemented.

Recommendation x.

64. *GRECO recommended significantly strengthening the internal control mechanisms for integrity in Parliament so as to ensure independent, continuous and proactive monitoring and enforcement of the relevant rules. This clearly presupposes that a range of effective, proportionate and dissuasive sanctions be available.*
65. GRECO recalls that this recommendation was not implemented in the Compliance Report. The reforms referred to by the authorities had been in existence already at the time of the adoption of the Evaluation Report and had been considered insufficient.
66. The Ukrainian authorities now report that pursuant to the resolution of the Verkhovna Rada of 18 July 2020³¹, a Department for the prevention of corruption, with a full-

²⁹ Draft laws "on state registration of subjects of lobbying and lobbying in Ukraine" (register No. 3059), "on lobbying" (Reg. No. 3059-1), "on legal and transparent regulation of lobbying activities" (register. No. 3059-2), and "on lobbying activities" (register. № 3059-3).

³⁰ Set up under the Parliamentary Committee on Anticorruption Policy.

³¹ Resolution No. 723-IX on amendments to paragraph 2 of the resolution on the structure of the staff of the Verkhovna Rada of Ukraine.

time staff of five people, has been set up at the Secretariat of the Verkhovna Rada. The authorities specify that this structural unit has been endowed with the tasks envisaged under the new Article 13¹ (entitled "Authorised units for the prevention and detection of corruption) paragraph 6 of the LPC, introduced through amendments of 15 December 2020. In particular, these tasks include controlling the implementation of measures to prevent corruption; assessing corruption risks and proposing measures to eliminate them; providing methodological and advisory assistance on the anti-corruption legislation; identifying measures to detect conflicts of interest and facilitate their resolution; informing internally and the NACP of such instances and resolving them; verifying the submission of declarations by MPs and notifying the NACP of the non-submission of such declarations etc.

67. GRECO takes note of the information provided. It appears that a new structural unit has been set up in the Secretariat of Parliament to enhance internal control mechanisms regarding integrity among the MPs. The newly established Department for the prevention of corruption in charge of supervising MPs' compliance with integrity rules could become an important tool in this respect. The main function of the Department is detecting and reporting violations to the NACP and other specialised public bodies in charge of combating corruption. However, GRECO notes that the Department itself has no capacity to impose and enforce any sanctions for violations detected, as such measures are reserved to specialised anti-corruption bodies in the context of administrative or criminal violations (NACP, NABU, SAPO and High Anti-Corruption Court, as appropriate). Consequently, the internal parliamentary mechanism is limited to detecting and reporting anti-corruption violations, but does not provide for effective, proportionate and dissuasive sanctions within Parliament. Therefore, measures taken to address this recommendation remain insufficient to consider it implemented more than partly.
68. GRECO concludes that recommendation x has been partly implemented.

Recommendation xii.

69. *GRECO recommended developing efficient internal mechanisms to promote and raise awareness on integrity matters in Parliament, both on an individual basis (confidential counselling) and on an institutional level (training, institutional discussions on ethical issues, active involvement of leadership structures).*
70. It is recalled that this recommendation was not implemented in the Compliance Report; no information had been submitted by the authorities in this regard.
71. The Ukrainian authorities now report that since the setting up in July 2020 of the Department for the prevention of corruption of the Secretariat of the Verkhovna Rada (see recommendation x), this Department conducted several training sessions for MPs entitled "Virtuous Parliament: how to declare in 2021". According to the authorities, 44 MPs took part in the session conducted on 10 March, 44 on 11 March, 27 on 16 March and 28 on 23 March 2021. The tasks of the Department include providing methodological and advisory assistance and consultation on compliance with anti-corruption legislation and conducting trainings. In addition, it is reported that in the course of 2020, the NACP provided training to MPs, entitled "Declare in 2020".
72. GRECO takes note of the information provided, in particular the establishment of the Department for the Prevention of Corruption within the Secretariat of Parliament. Thus, some initial measures are underway as regards raising awareness of integrity matters among MPs. These steps are headed in the right direction, but their limited scale does not demonstrate institutional discussions on ethical issues, or active involvement of leadership structures in Parliament. Until further examples of consistent practice of training and confidential counselling provided to MPs on

integrity matters are available, GRECO cannot consider this recommendation as implemented more than partly.

73. GRECO concludes that recommendation xii has been partly implemented.

Corruption prevention in respect of judges

Recommendation xiii.

74. *GRECO recommended abolishing the criminal offence of "Delivery of a knowingly unfair sentence, judgment, ruling or order by a judge" (article 375 of the Criminal Code) and/or, at the least, otherwise ensuring that this and any other criminal offences criminalise only deliberate miscarriages of justice and are not misused by law enforcement agencies to exert undue influence and pressure on judges.*
75. GRECO recalls that this recommendation was not implemented in the Compliance Report. Two new draft laws had been registered at the time, one aimed at enhancing the criminal liability of judges under Article 375³² of the CC, and the other one intending to abolish article 375 altogether. However, the issue had remained unresolved.
76. The Ukrainian authorities now report that in its decision of 11 June 2020, the Constitutional Court of Ukraine declared Article 375 of the CC as unconstitutional, and its validity has been extended for six months so as to allow Parliament to fine-tune its new wording. However, Parliament did not make any further amendments to this article and, upon expiry of the six-months' period, Article 375 of the CC has become null and void. That said, the authorities express the view that the abolition of this provision is highly problematic in the context of current extent of corruption within the judiciary, and confirm their intention of re-introducing criminal liability of judges for intentional delivery of knowingly unjust or unreasonable decisions. Four different draft laws in this respect have been included on the agenda of the sixth session of Parliament on 7 September 2021.
77. GRECO notes with satisfaction that at present, Article 375 of the CC is no longer in force since being declared unconstitutional by the Constitutional Court.
78. GRECO concludes that recommendation xiii has been dealt with in a satisfactory manner.
79. That said, the envisaged re-introducing of criminal liability of judges for "intentional making a knowingly unjust or unreasonable decision etc." may lead to serious concerns. GRECO urges the Ukrainian authorities to refrain from reinstating such a criminal provision and reserves the right to re-examine the implementation of this recommendation, should any adverse developments take place in this regard.

Recommendation xiv.

80. *GRECO recommended that measures be taken to ensure the safety of judges to make them less vulnerable to external pressure and corruption.*
81. It is recalled that this recommendation was partly implemented in the Compliance Report. Some measures had been taken to improve the safety of judges, in particular, protection had been provided by the National Police and the National Guard Service,

³² "Intentional making a knowingly unjust or unreasonable decision by judge or investigating judge (sentence, ruling or resolution) for selfish or other personal reasons, or if it has caused substantial damage to the rights, freedoms and interests of individuals or state or public interests, or the interests of legal entities."

and the launching of the Court Security Service had been imminent. However, it had not yet started to function in full capacity.

82. The Ukrainian authorities now report that the setting up of the Court Security Service units has been completed in all 24 regions of Ukraine. As of 10 November 2021, the Court Security Service provides protection of 588 judicial bodies and institutions, including 532 courts (2870 courtrooms) and 56 other bodies or institutions, thus covering 80% of these bodies. In 2021 alone, the protection of the Court Security Service has been provided to a further 120 courts. There are still some 146 objects to which the protection of the Service needs to be extended. This work is done by over 4 200 employees, including mobile units travelling to remote courthouses. Rapid Response Units are in operation in nine regions of the country to ensure security during sessions on high-profile court cases. Further, personal security and property protection is provided to 30 judges. Overall, the Court Security Service has the capacity of employing 10 559 people, and its current staff is at 50% of full capacity.
83. GRECO takes note of the information provided. It would appear that rigorous measures have been taken to enhance judges' physical security and improve protection of public order in courts. While these are clearly positive developments, only half of the staffing capacity of the Court Security Service has been utilised. GRECO will be able to reassess this recommendation, once the human and material resources envisaged for the Court Security Service are deployed to a greater extent.
84. In view of the above, GRECO concludes that recommendation xiv remains partly implemented.

Recommendation xv.

85. *GRECO recommended (i) reviewing the need to reduce the number of bodies involved in the appointment of judges; (ii) defining more precisely the tasks and powers of the Public Council of Integrity, further ensuring that its composition reflects the diversity of society, and strengthening the rules on conflicts of interest – including through the provision of an effective control mechanism.*
86. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The adoption of the law reforming judicial self-governance and bringing the High Qualification Commission of Judges (HQC) within the structure of the High Judicial Council (HJC) had been viewed as positive developments. However, the overhaul of the judicial system was still on-going. The second part of this recommendation had not been addressed at the time.
87. The Ukrainian authorities now report that the issue of reducing the number of bodies involved in the appointment of judges has been thoroughly examined in the course of consideration of a series of legal amendments relating to the judiciary in 2020-2021. As a result, it has been concluded that reducing the number of such bodies by combining the HJC and the HQC would not be advisable at this stage. Consequently, the HJC, the HQC, the Competition Commission, the Ethics Council and the Public Council on Integrity will continue to exist. The authorities report that the composition of the Ethics Council has been approved on 9 November 2021. In addition, reference is made to paragraph 4.2.1. of the Strategy for the development of the justice system and constitutional justice for 2021-2023, which provides for the possibility of bringing HQC into the structure of HJC, to be implemented after new members of HQC conduct qualification assessment of acting judges and fill the vacant judicial positions.
88. As regards the second part of the recommendation, the authorities recall that the Public Council of Integrity is the only body involved in the assessment and selection of judges, having a methodology for assessing integrity and ethics on the basis of

clearly defined criteria³³. However, for the time being, no legislative changes have been made in relation to the tasks and powers of the Public Council³⁴. According to the authorities, the term of office of members of the Public Council of Integrity expired at the end of 2020 and its new composition has not yet been selected³⁵.

89. GRECO notes, with respect to the first part of the recommendation, that the need to reduce the number of bodies involved in judicial appointments has apparently been reviewed by the relevant authorities in the context of legislative amendments relating to various judicial bodies, and a possibility of bringing the HQC into the structure of the HJC has been envisaged in a policy document. Thus, the formal requirement of the first part of the recommendation has been met. The recent adoption of legal amendments with the purpose of enabling self-governing judicial bodies to resume functioning are also to be welcomed. That said, GRECO remains concerned over the persisting deadlock as regards the resuming of functioning of most of the judicial self-governing bodies, entailing risks to institutional set-up guarantees and undue influences. It is of paramount importance that these bodies are formed in a manner providing solid guarantees of independence to the judiciary. The second part of the recommendation has still not been addressed.
90. GRECO concludes that recommendation xv remains partly implemented.

Recommendation xvii.

91. *GRECO recommended that periodic performance evaluation of judges is carried out by judges on the basis of pre-established, uniform and objective criteria in relation to their daily work.*
92. It is recalled that this recommendation was not implemented in the Compliance Report. The situation had not changed since the adoption of the Evaluation Report, except in respect of some on-going work on the elaboration of a methodology for regular evaluation of judges, which had not been completed at the time.
93. The authorities of Ukraine now report that on 13 July 2021, Parliament adopted amendments to the Law "On the Judiciary and the Status of Judges" and some other laws on relaunching of the HQC. The new composition of the High Qualification Commission (HQC), once selected, will resume developing of the methodology of assessment and self-assessment of judges. The authorities report that the development of a methodology for evaluating judges, referred to in the previous compliance report, has been suspended.
94. GRECO notes with regret that no progress has been achieved in the implementation of this recommendation. On the contrary, the previous preparatory works to develop some criteria for the evaluation of judges has been discontinued. The persistent lack of clear, uniform and objective criteria for periodic evaluation of judges needs to be addressed urgently.
95. GRECO concludes that recommendation xvii remains not implemented.

³³ The authorities refer to recent international initiatives, supporting the role played by the Public Council of Integrity and highlighting the need to preserve its involvement in the procedures for evaluating and selecting judges in Ukraine.

³⁴ The draft Anti-Corruption Strategy for 2021-2025 provides for "improving the verification of compliance with the criteria (indicators) of the integrity of candidates within the framework of the procedures for selecting and appointing new judges with the involvement of the Public Council of Integrity, having determined its status, the procedure for formation and the organisational and legal basis of its activities".

³⁵ The authorities specify that new members of the Public Council of Integrity will be elected once the new members of the High Qualification Commission have been selected, which has not yet materialised.

Recommendation xviii.

96. *GRECO recommended ensuring that in all court proceedings any decisions on disqualification of a judge are taken without his/her participation and can be appealed.*
97. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The amended procedure for recusal of a judge had provided that, when the court would decide that the recusal had not been grounded, the recusal decision would then have to be taken by a judge from another court. However, no appeal channels had been indicated for such decisions.
98. The authorities once again reiterate legal provisions³⁶, which were already provided in the context of the previous compliance report. Further, the authorities refer to Article 81 of the Criminal Procedure Code, which establishes that in case of recusal to an investigating judge, or a single judge conducting court proceedings, the issue of recusal is considered by another judge of the same court. Should a recusal request be made in respect of one, several or all judges conducting proceedings collectively, such request would be considered by the same court. Finally, the authorities refer to provisions of the Code of Civil Procedure, the Code of Economic Procedure and the Code of Administrative Procedure, which establish that violation of norms of procedural law are grounds for mandatory annulment of court decisions.
99. GRECO takes note of the information provided. While appreciating additional procedural nuances clarified by the authorities, the possibility for the judge, whose recusal has been requested, to participate in the examination of the recusal request remains a source of concern. In addition, the authorities did not provide information as to whether an appeal of the decision on recusal *per se* is possible. It follows that this recommendation cannot be considered as implemented more than partly.
100. GRECO concludes that recommendation xviii remains partly implemented.

Recommendation xix.

101. *GRECO recommended defining disciplinary offences relating to judges' conduct more precisely, including by replacing the reference to "norms of judicial ethics and standards of conduct which ensure public trust in court" with clear and specific offences.*
102. It is recalled that this recommendation was not implemented in the Compliance Report. Some work was in progress at the time regarding updating of the Code of Judicial Ethics and preparing a commentary to this Code, but no amendments had been made to clearly define disciplinary offences provided for in the Law on the Judiciary and the Status of Judges.
103. The Ukrainian authorities now report that the draft Anti-Corruption Strategy for 2021-2025 contains among its strategic objectives the clarification of the definitions of disciplinary liability of judges, in particular to more clearly identify signs of disciplinary offences that "tarnish the title of judge" or "undermine the authority of justice". Further, the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021 - 2023, provides, in particular, the improvement of the norms on disciplinary liability for intentional or negligent violation of procedural law during the administration of justice, and introduction of a clearer definition of the grounds for disciplinary liability for violation of the rules of judicial ethics. In addition, in June 2020, the HJC set up a working group to summarise disciplinary practice in

³⁶ Namely, Article 40 of the Code of Civil Procedure, Article 39 of the Code of Economic Procedure and Article 40 of the Code of Administrative Procedure.

the judiciary, which was replaced in April 2021 by another working group with a similar task, this time composed of members of the HJC.

104. GRECO notes that while some measures are envisaged, according to a policy document, no tangible progress has been reported to introduce clear definitions of disciplinary offences relating to judges' conduct. No information has been provided as to the actual or expected results of activity of the two working groups, referred to by the authorities. GRECO stresses that the issue of clarifying definitions of disciplinary offences still needs to be resolved.
105. GRECO concludes that recommendation xix remains not implemented.

Corruption prevention in respect of prosecutors

Recommendation xxiii.

106. *GRECO recommended amending the statutory composition of the Qualifications and Disciplinary Commission to ensure an absolute majority of prosecutorial practitioners elected by their peers.*
107. GRECO recalls that this recommendation was not implemented in the Compliance Report. It was noted that the new Law on the Reform of the Prosecutor's Office considerably changed the situation assessed since the adoption of the Evaluation Report by suspending altogether the Qualification Disciplinary Commission (QDC). What is more, the recruitment functions had been temporarily transferred to personnel commissions, whose composition, functions and procedures had not been regulated by law.
108. The Ukrainian authorities once again refer to the provisions of the Law No. 113-IX³⁷ stipulating that consideration of disciplinary proceedings in respect of prosecutors is to be carried out by a personnel commission formed by the Prosecutor General. This commission was set up on 9 January 2020 and consists of seven employees of the Office of the Prosecutor General, including six acting prosecutors. Furthermore, the authorities report that as of 1 September 2021, the suspended provisions of the Law on the Prosecutor's Office relating to the setting up and operation of some prosecutorial self-government bodies (including the relevant body conducting disciplinary proceedings, which replaced the QDC), and the procedure for appointing members of the Council of Prosecutors have re-entered into force. Pursuant to Article 74, part 1 of the Law on the Prosecutor's Office, the relevant disciplinary body is now composed of five prosecutors, appointed by the All-Ukrainian Conference of Prosecutors on 27-28 August 2021, two members appointed on 9 September 2021 by the Congress of legal universities and scientific institutions, and three members appointed by the Parliamentary Commissioner for Human Rights in agreement with the Parliamentary Committee on Law Enforcement. One more member is yet to be appointed to the relevant disciplinary body by the Congress of Lawyers of Ukraine. According to the authorities, on 3 November 2021, this disciplinary body has become operational and its powers include selection of candidates for the position of prosecutor; participation in decisions regarding the transfer of prosecutors; examination of disciplinary complaints and conducting disciplinary proceedings in respect of prosecutors; imposition of disciplinary sanctions, including a decision of impossibility of occupying a prosecutorial position as a result of disciplinary proceedings.

³⁷ In particular, paragraph 7, item 22 of section II of the Law of Ukraine No. 113-IX "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures to Reform the Prosecutor's Office" adopted on 19 September 2019. See, in particular: <https://www.rferl.org/a/ukraine-anti-corruption-office/31501183.html> and <https://www.kyivpost.com/ukraine-politics/eu-us-urge-kyiv-to-resume-work-of-selection-to-elect-head-of-anti-corruption-prosecutors-office.html>

109. Further, the authorities state that a draft law on the composition of the relevant disciplinary body is in preparation in the Office of the Prosecutor General. According to this draft, the composition of this body is to consist of eleven members who are citizens of Ukraine, have a higher legal education and at least ten years of work experience in the field of law, of which:
- 1) six prosecutors are appointed by the All-Ukrainian Conference of prosecutors;
 - 2) two persons (scientists) are appointed by the Congress of representatives of law higher educational institutions and scientific institutions;
 - 3) one person (lawyer) is appointed by the Congress of lawyers of Ukraine;
 - 4) two persons are appointed by the Commissioner for Human Rights of the Verkhovna Rada of Ukraine in coordination with the committee of the Verkhovna Rada of Ukraine, which is responsible for the organisation and activities of the prosecutor's office.
110. GRECO takes note of the information provided. It would appear that the legal and operational vacuum created by suspending the operation of self-governing prosecutorial bodies responsible for recruitment, dismissal, and disciplinary oversight is gradually being remedied. That said, the composition of the relevant disciplinary body falls short of the requirement of this recommendation. GRECO also notes that draft legislation appears to be in preparation to address the core of this recommendation – to ensure that an absolute majority of its members are prosecutors, elected by their peers. However, this draft has not yet reached Parliament. In view of the above, this recommendation cannot be considered implemented, even partly.
111. GRECO concludes that recommendation xxiii remains not implemented.

Recommendation xxiv.

112. *GRECO recommended regulating in more detail the promotion/career advancement of prosecutors so as to provide for uniform, transparent procedures based on precise, objective criteria, notably merit, and ensuring that any decisions on promotion/career advancement are reasoned and subject to appeal.*
113. It is recalled that this recommendation was partly implemented in the Compliance Report. Some measures had been taken to regulate the promotion/career advancement of prosecutors, but GRECO was critically concerned about the suspension of the QDC and the establishment of personnel commissions.
114. The Ukrainian authorities now report that the operational plan for the implementation of the Prosecutors Development Strategy 2021-2023 defines specific measures, responsible units, time frames and expected results concerning *inter alia* regulation of the promotion/career of prosecutors. The authorities refer to Prosecutor General's Order No.168 of 31 May 2021 (as amended by Order No. 195 of 14 June 2021), which approved regulations of the commission for the selection of senior staff of prosecutor's offices. According to this Order, prosecutors may consult vacancy announcements for administrative positions, and candidates succeeding in the selection procedure are appointed to administrative posts. This selection procedure consists of the following stages³⁸: a practical task; an integrity check; and an interview. Half of the members of the selection commission consist of persons who are not prosecutors, but are nominated by international and non-governmental organisations, international technical assistance projects, and diplomatic missions.

³⁸ Performance checks in the practical task are carried out in accordance with the approved Methodology, while during interviews, the moral and business qualities of the candidate are examined in accordance with the criteria defined in the Methodology, taking into account the results of checking his integrity, professional qualities, organisational and managerial skills.

The authorities also report that the Council of Prosecutors, whose tasks include participation in determining the needs of staffing of prosecutors and the appointment and dismissal of prosecutors to administrative positions, has resumed functioning³⁹.

115. Further, as of 1 September 2021, Article 38⁴⁰ of the Law on the Prosecutor's Office has re-entered into effect. Pursuant to its provisions, transfer of a prosecutor, including to a higher level prosecutor's office shall be based on the results of a competition, the procedure for which is determined by the relevant body conducting disciplinary proceedings⁴¹. The competition for promotion of prosecutors is based on the assessment of the professional level, experience, moral and professional qualities of the candidate and his/her readiness to exercise powers in another body of the prosecutor's office, including at higher levels⁴². The Procedure for competition for a vacant or temporarily vacant position in the prosecutor's office was approved on 26 October 2021 and consists of such stages as law-testing and an interview, including a practical task. Section VI of the Procedure is said to set out a mechanism for determining the results of the competition. Paragraph 5.12. of this Procedure defines the criteria for evaluating candidates based on the results of the interview, as follows:
- professional competence and readiness to exercise the powers of a prosecutor in a higher-level prosecutor's office;
 - efficiency of work as a prosecutor;
 - experience in the field of the position for which the application is submitted (the performance of duties in the position for which the competition may be taken into account);
 - moral character, observance of rules of prosecutorial ethics.
116. Pursuant to the Procedure above, decisions of the relevant body regarding transfers and promotions may be appealed before this body on several grounds⁴³. Ultimately, Article 130 of the Regulations of the relevant disciplinary body stipulates that these decisions may also be appealed before a court (as per Articles 5 and 19 of the Code of Administrative Procedure). The authorities suggest that such appeals have been submitted regularly and have in many cases been resolved in favour of complainants⁴⁴.
117. It is also reported that the Verkhovna Rada is currently examining the draft legal amendments to certain laws concerning the selection and training of prosecutors, recommended on 6 October 2021 by the Parliamentary Committee on Law Enforcement for adoption in the second reading. This draft envisages, in particular,

³⁹ Prior to these developments, pursuant to amendments brought about by the Law No. 113-IX of 19 September 2019, the selection of prosecutors to senior positions was carried out by the relevant commission, established by the Order of the Prosecutor General of 22 April 2020. This commission included four active prosecutors and two representatives from the scientific community.

⁴⁰ Article 38 of the Law on the Prosecutor's Office is entitled "Procedures for Transferring a Prosecutor to another Public Prosecutor's Office".

⁴¹ The competition includes an assessment of the professional level, experience, moral and business qualities of the prosecutor and checking his readiness to exercise powers in another body of the prosecutor's office, including the highest level.

⁴² Prior to these developments, promotions were regulated by Orders of the Prosecutor General No. 454 of 16 September 2020 and No. 519 of 11 November 2020, which used to be implemented by a personnel commission set up for this purpose.

⁴³ Thus, the grounds and deadlines for appeals are as follows:

- on the decision of the body to refuse admission to the competition - no later than 5 business days from the date of its publication on the official website of the body;
- on the number of points following the results of each stage of the competition or the total number of points according to the results of the competition - no later than 5 business days from the date of publication of points following each of the stages or total score, respectively;
- on the issues of the competition procedure - not later than the next business day after the relevant stage of the competition.

⁴⁴ In the course of 2020, five candidates appealed against the outcomes of selection procedures on procedural grounds in administrative proceedings. Three of these claims were decided in favour of the complainants. Further, three appeals were filed in administrative proceedings in the context of selections procedures conducted in 2021, including on the results of unsuccessful interviews and inadmissibility to participate in the selection procedures.

removing the requirement of two years' experience in the field of law for candidates for the position of prosecutor; allowing to obtain directly from the prosecutor's office the necessary work experience in the field of law as a condition for appointment to the district prosecutor's office.⁴⁵

118. GRECO takes note of the information provided. It welcomes that, with the re-entry into force on 1 September 2021 of the relevant provisions of the Law on the Prosecutor's Office, the personnel commissions in charge of transfers and promotions have been discontinued, and the relevant body conducting disciplinary proceedings has become operational on 3 November 2021. The adoption of new procedures to regulate transfers and promotions of prosecutors, which include specific criteria to be applied in selection procedures, is also a step forward. Further, GRECO notes with satisfaction that decisions on promotion can now be appealed, which has been supported by examples from practice. However, the new system has just become operational, and some further measures are still in the pipeline. It is also not clear whether all decisions on promotions and career advancement of prosecutors must be reasoned. In view of the above, this recommendation cannot be considered as implemented more than partly.
119. GRECO concludes that recommendation xxiv remains partly implemented.

Recommendation xxv.

120. *GRECO recommended introducing by law periodic performance evaluation of prosecutors within the prosecution service – involving the self-governing bodies – on the basis of pre-established and objective criteria, while ensuring that prosecutors have adequate possibilities to contribute to the evaluation process.*
121. GRECO recalls that this recommendation was partly implemented in the Compliance Report. The new Law on the Reform of the Prosecutor's Office had provided for regular periodic evaluation of prosecutors, but the modalities of its operation, including its assessment criteria, had not yet been regulated.
122. The Ukrainian authorities now report that regulations regarding periodic evaluation of prosecutors⁴⁶ have been introduced by the Prosecutor General's Order No. 503 of 30 October 2020. These cover assessment of work of prosecutors at all levels, and include grounds and procedure for awarding bonus payments, based on the result of assessments (e.g., effectiveness, performance, quality, quantity etc.). The results of the assessment are reflected in a report, drawn up by the prosecutor subject to assessment, and agreed with the direct supervisory prosecutor. Based on its results, the supervisory prosecutor may issue positive, satisfactory or negative conclusion. According to the authorities, in the course of 2020, nearly 800 prosecutors of the Prosecutor General's Office, and about 3000 prosecutors of regional prosecutor's offices have undergone performance assessments. As to district prosecutors' offices, a first assessment of their staff was carried out in 2021, with a total of 2000 prosecutors (36% of a total number of evaluated prosecutors) having failed the evaluation.
123. The authorities also report that the Prosecutor General's Office continues to work on the development of individual assessment systems for the quality of work of prosecutors. A working group for this purpose was set up on 18 September 2020 by the Order No. 455 of the Prosecutor General. Once the system is in place, it is

⁴⁵ This draft is also said to envisage two-stage traineeship possibilities for candidates for the position of prosecutor: primary, to be conducted in the Training Centre of Prosecutors (covering the basics of work organisation in the prosecutor's office, the rules of prosecutor's ethics, and so on) and an internship as a trainee prosecutor, based on candidate's rating obtained as the result of a qualification exam.

⁴⁶ Entitled "Temporary regulation on the system for assessing the quality of work of prosecutors and awarding bonuses to prosecutors".

intended that the assessment of prosecutors' work will be carried out annually, and individual assessments – at least once in four years. In case of a positive annual assessment, the prosecutor will receive bonus payments not exceeding 30% of the official salary. In addition, the authorities intend introducing an electronic personnel management system for assessing the work of prosecutors, as envisaged by the draft Anti-Corruption Strategy for 2021-2025. The future electronic assessment system will provide the possibility for prosecutors having a "negative" assessment to appeal the results to a higher-level manager.

124. GRECO takes note of the information provided. The introduction of periodic evaluation of prosecutors' work, already implemented in respect of the Prosecutor General's Office and regional prosecutors' offices, are positive steps. It would also appear that new regulations allow prosecutors subject to assessment to participate in the process. These assessments appear to be carried out by prosecutors' immediate supervisors, but do not seem to involve any self-governing bodies. Moreover, GRECO notes the work still in progress to develop an individual assessment procedure of prosecutors' performance. The logic of two parallel assessment systems is not clear to GRECO. Overall, GRECO cannot consider this recommendation as dealt with more than partly.

125. GRECO concludes that recommendation xxv remains partly implemented.

Recommendation xxvi.

126. *GRECO recommended introducing a system of random allocation of cases to individual prosecutors, based on strict and objective pre-established criteria including specialisation, and coupled with adequate safeguards – including stringent controls – against any possible manipulation of the system.*

127. It is recalled that this recommendation was not implemented in the Compliance Report. An electronic workflow had been put in place, and the development of e-case management system for the anti-corruption bodies, including SAPO, with the intention to further expand it to the whole prosecutorial system, had been at an initial stage. However, the underlying reason for this recommendation was the need to regulate case assignment on the basis of strict and objective pre-established criteria, which had not been addressed.

128. The Ukrainian authorities refer to the legal provisions⁴⁷ regulating case allocation in the prosecution, which were already in force at the time of the previous Compliance Report. The Prosecutor General's Order No. 51 contains criteria⁴⁸ to be observed when assigning cases to prosecutors. However, it leaves the decision-making power regarding distribution of cases with the head of the relevant prosecutor's office, who is entitled to distribute the cases. Further, a new order of the Prosecutor General is

⁴⁷ Article 37 of the Criminal Procedure Code and the Prosecutor General's Order No.51 of 28 March 2019.

⁴⁸ The criteria, provided in the Order No. 51 of 28 March 2019 is as follows:

- the number of criminal proceedings in which he exercises the powers of the prosecutor independently and as part of a group of prosecutors;
- experience of the prosecutor, his specialisation;
- number of prosecutors in a particular criminal proceeding;
- the complexity of criminal proceedings, namely multi-episode, public resonance, the gravity of the crime, the place of commission of the crime, the need for priority and urgent investigative and procedural actions, the volume of investigative (search) and secret investigative (search) actions, the volume of participation of the prosecutor in the consideration of investigative judges of petitions, complaints during pre-trial investigation, the terms of pre-trial investigation and preventive measures against the suspect, the need to prepare documents for their continuation, participation in the extension of terms, the number of participants in criminal proceedings;
- the number of investigators who carry out pre-trial investigation in a particular criminal proceeding, their work experience and specialization.

said to be in preparation by a dedicated working group, which will introduce electronic case distribution and provide additional criteria⁴⁹ for case allocation.

129. In addition, the authorities present the views of the NACP, opposing the introduction of the “electronic case distribution system”, which, in their opinion, would further exacerbate the considerable delays in prosecuting and adjudicating criminal cases, including on corruption. The NACP also argues that an electronic case distribution system in the prosecution would be in contravention to the principle of prosecutors’ procedural independence and the right to disagree with the management’s position.
130. GRECO takes note of the information provided. It regrets the lack of tangible progress in the implementation of this recommendation. GRECO once again recalls that case assignment should follow strict and objective pre-established criteria and be operated through random (electronic or not) distribution of cases as a main rule (see paragraph 231 of the Evaluation Report). GRECO also takes note of the information from the authorities that Article 37 of the CPC may be abused to change the prosecutor(s) of a case (see recommendation xxviii), which highlights the need for a system based on random allocation of cases.
131. GRECO concludes that recommendation xxvi remains not implemented.

Recommendation xxvii.

132. *GRECO recommended (i) that the new code of ethics for prosecutors be complemented by illustrative guidelines (e.g. concerning conflicts of interest, gifts and other integrity-related matters) and (ii) that those documents be brought to the attention of all prosecutors and made public.*
133. GRECO recalls that this recommendation was partly implemented in the Compliance Report. Corruption prevention requirements had been further specified in the Code of Ethics for prosecutors and guidelines / recommendations with respect to gifts and conflict of interest had been introduced and some explanations had been provided on the website of the Prosecutor General’s Office regarding e-declaration and financial control. However, no guidance had been reported with respect to other integrity matters (such as incompatibilities, etc). Moreover, the available guidelines had been scattered in various documents.
134. The Ukrainian authorities now report that the improvement and further detailing of the Code of Ethics of prosecutors is included in the Prosecutor’s Office Development Strategy for 2021-2023.
135. GRECO notes that no new measures have been reported regarding the implementation of this recommendation.
136. GRECO concludes that recommendation xxvii remains partly implemented.

⁴⁹ According to the draft, when determining the prosecutor in charge of the case, the following should be taken into account:

- territorial jurisdiction of the prosecutor's office;
- the number of investigators who carry out pre-trial investigation in a particular criminal proceeding, their work experience and specialisation;
- the number of criminal proceedings in which the relevant prosecutor exercises the powers of the prosecutor independently and as part of a group of prosecutors, work experience, specialisation;
- number of prosecutors in a particular criminal proceeding;
- the complexity of criminal proceedings, in particular multi-episode, public response, the severity of the criminal offense, the place of commission, the need for priority, urgent investigative (search) and secret investigative (search) and other procedural actions, their scope and participation of the prosecutor in the consideration by investigating judges of petitions, complaints during pre-trial investigation, the term of pre-trial investigation and preventive measures against the suspect, the need to prepare documents for their continuation, participation in the extension of terms, the number of participants in criminal proceedings.

Recommendation xxviii.

137. *GRECO recommended (i) encouraging prosecutors in suitable ways to recuse themselves from a case whenever a potential bias appears; (ii) ensuring that any decisions on disqualification of a prosecutor can be appealed.*
138. GRECO recalls that this recommendation was partly implemented in the compliance report. Some measures had been taken to improve prosecutors' awareness on the requirements of disqualification / self-recusal. However, the legal basis for appeal of recusal decisions had remained the same as at the time of the evaluation visit.
139. The Ukrainian authorities now report that on 30 September 2021, the Prosecutor General approved the Order No 309 "On the organisation of the activities of prosecutors in criminal proceedings". Paragraph 21.1 of this Order stipulates that a prosecutor is obliged to recuse him/herself in the presence of a conflict of interest, or other circumstances, which may raise doubts as to his/her procedural independence. Reference is made once to legal provisions prohibiting participation⁵⁰ of prosecutors in criminal cases, and dismissing the prosecutor⁵¹, already in force at the time of the adoption of the Evaluation Report.
140. The authorities share concerns relating to the possibility for the head of prosecutor's office to change the prosecutor in charge of a concrete case on the grounds of "ineffective supervision", provided under Article 37 of the CPC. According to the authorities, this provision is at times abused, especially in high-profile cases, through changing the composition of the group of prosecutors in charge of the case, or transfer the case to another prosecutor, which is also not subject to appeal.
141. GRECO notes with satisfaction the adoption of a new normative act setting out mandatory self-recusal of prosecutors in cases of conflicts of interest or other circumstances which may raise doubts to their procedural independence. That said, it remains unclear whether any legal provisions have been put in place to allow appealing against recusal decisions. The provisions of the CPC and LPC cited by the authorities were in force at the time of the adoption of the Evaluation Report and do not relate to prosecutors' recusal from specific cases.
142. GRECO concludes that recommendation xxviii remains partly implemented.

Recommendation xxix.

143. *GRECO recommended (i) defining disciplinary offences relating to prosecutors' conduct and compliance with ethical norms more precisely; (ii) extending the range of disciplinary sanctions available to ensure better proportionality and effectiveness.*
144. It is recalled that this recommendation was not implemented in the Compliance Report. The explanation of the notion of "acts which discredit the title of a public prosecutor..." referred to by the authorities, had already been in place at the time of the adoption of the Evaluation Report. The grounds for disciplinary liability of prosecutors had not been clarified. No measures had been taken to address the second part of the recommendation.
145. The Ukrainian authorities now report that new Regulations on the procedure for the operation of the relevant disciplinary body have been adopted on 28 August 2021 by the All-Ukrainian Conference of Prosecutors. Further, the Development Strategy of the Prosecutor's Office for 2021-2023 is said to include among its priority tasks

⁵⁰ Article 77 of the Criminal Procedure Code.

⁵¹ Article 64 of the Law on the Prosecutor's Office.

“Improving and detailing the code of professional ethics and conduct for prosecutors”. In addition, the draft amendments to the Law on the Prosecutor’s Office, submitted to the relevant Parliamentary Committee on 16 January 2021, suggest expanding the grounds for prosecutors’ disciplinary responsibility.

146. GRECO takes note of the information provided. It notes that the situation globally remains the same as it was at the time of the adoption of the Compliance Report.

147. GRECO concludes that recommendation xxix remains not implemented.

Recommendation xxx.

148. *GRECO recommended enhancing the efficiency of disciplinary proceedings by extending the limitation period, ensuring that proceedings can be launched also by the relevant self-governing bodies (which are not entrusted with decision-making in disciplinary proceedings) and heads of prosecution offices, and providing that appeals against disciplinary decisions can ultimately (after a possible internal procedure within the prosecution service) only be made to a court, both on substantive and procedural grounds.*

149. GRECO recalls that this recommendation was not implemented in the Compliance Report as the limitation period of one year had not been increased. No progress had been made to review the system of appeal.

150. The authorities of Ukraine now report that the Strategy for the Development of the Judiciary and Constitutional Judicial System for 2021-2023 envisages a comprehensive legislative settlement of issues of disciplinary liability of prosecutors. Thus, paragraph 4.4 of the Strategy provides for “improvement in accordance with European standards and best international practices of disciplinary proceedings, ensuring transparency and objectivity of the disciplinary complaint about the prosecutor’s disciplinary misconduct, inevitability and proportionality of disciplinary responsibility of the prosecutor.” As to the appeal of a disciplinary decisions, the authorities once again refer to Article 50 of the LPC, allowing to appeal the decision of disciplinary proceedings before the HJC or a court, and that a revision of this appeal system would require Constitutional amendments. As to the situation in practice, 77 disciplinary complaints were submitted in 2021 by the heads of the prosecutor’s offices, of which 58 disciplinary proceedings were opened, 17 were rejected and two more are being considered. No disciplinary complaints were received from the prosecutor’s self-governing bodies. It is once again noted that as of 3 November 2021, disciplinary proceedings are conducted by the relevant disciplinary body.

151. GRECO takes note of the information provided. No tangible developments have been reported regarding this recommendation, even though a more general objective of addressing the disciplinary liability of prosecutors is reflected in a policy document. No new information is provided regarding the launching of disciplinary proceedings by the relevant self-governing bodies and heads of prosecution offices *ex officio*. Further, an appeal against a disciplinary decision has not been reserved to court only, but is still possible also with the HJC.

152. GRECO concludes that recommendation xxx remains not implemented.

Recommendation xxxi.

153. *GRECO recommended providing to all prosecutors dedicated, regular training and confidential counselling on ethics and integrity, prevention of conflicts of interest and corruption, and raising prosecutors’ awareness of such matters.*

154. It is recalled that this recommendation was partly implemented in the Compliance Report. The National Academy of the Prosecutor's Office had organised training sessions for prosecutors on ethics and integrity; however, no systematic approach had been developed. Induction training had been put in place, but in-service training still needed to be secured, which was at the time more of an *ad-hoc* nature. No information was provided on confidential counselling.
155. The authorities of Ukraine now report that the National Academy of Prosecutor's Office has been transformed into the Training Centre for Prosecutors. The Development Strategy of the Prosecutor's Office for 2021-2023 envisages conducting regular specialised trainings for prosecutors and providing advice, including confidential, on issues of ethics and integrity, on preventing conflicts of interest and corruption. Thus, from January to November 2021, some 175 prosecutors and 572 candidates for prosecutorial positions have attended training on ethics and integrity at the Training Centre of Prosecutors. The Training Centre is also said to be piloting distance learning courses on ethics, integrity, and anti-corruption. The authorities submit that authorised units/persons are available in all public authorities, including in the Prosecutor's Office, to provide confidential counselling on matters of ethics and integrity. By way of example, they report that 30 prosecutors of the General Inspectorate have provided 967 anonymous advice and consultations on ethics and integrity, prevention of conflicts of interest and corruption in 2020, and 310 consultations from January to July 2021.
156. GRECO takes note of the information provided. The Training Centre for Prosecutors has become operational, and training sessions have been initiated for prosecutors on ethics and integrity matters. Progress has also been reported regarding confidential counselling. GRECO welcomes that both training and confidential counselling appear to be in place as required by the recommendation. However, as these measures are very recent, GRECO encourages the authorities to ensure their continuous and effective implementation in the long term.
157. GRECO concludes that recommendation xxxi has been dealt with in a satisfactory manner.

III. CONCLUSIONS

158. In view of the foregoing, GRECO concludes that Ukraine has implemented satisfactorily or dealt with in a satisfactory manner nine out of the thirty-one recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, fourteen have been partly implemented and eight have not been implemented.
159. More specifically, recommendations i, v, xi, xiii, xvi, xx, xxi, xxii and xxxi have been implemented satisfactorily, or dealt with in a satisfactory manner. Recommendations ii, iii, iv, vi, viii, x, xii, xiv, xv, xviii, xxiv, xxv, xxvii, and xxviii have been partly implemented. Recommendations vii, ix, xvii, xix, xxiii, xxvi, xxix and xxx have not been implemented.
160. The adverse effects on the functioning of specialised anti-corruption bodies, such as the NACP and the NABU, brought about by the decision of the Constitutional Court of 27 October 2020, have been addressed to some extent by the subsequently adopted legal amendments and new rules governing the operations of the NACP and promoting integrity among its staff, as well as new legal provisions on non-interference of other state actors in the NACP's activity. A reported improvement of cooperation with the Public Council is also to be welcomed. However, NABU has no access to bank account numbers of subjects of asset and interest declaration requirements, as no unified bank account database has been put in place so far.

GRECO stresses the need to continue enhancing the effectiveness, independence and impartiality of specialised anti-corruption institutions⁵².

161. In respect of members of Parliament, not much has improved. The practice as regards the transparency of legislative work remains inconsistent, and no improvement has been observed to limit the use of the fast-track legislative procedures. No progress has been made in the adoption of a code of conduct for parliamentarians, with relevant guidance on integrity related issues, and in regulation of the interaction of MPs with lobbyists. Some steps are under way to establish mechanisms strengthening the internal oversight and raising awareness of integrity matters. The difficulties raised by the circumvention of the restrictions of MPs' engagement in entrepreneurial activities have also not been fully resolved. An internal structural unit has been set up in the Secretariat of Parliament to monitor and report to specialised anti-corruption bodies violations of the relevant integrity rules and anti-corruption legislation; however, this internal unit has no authority to impose any type of sanctions for detected violations of rules on ethical conduct. Some initial measures are underway to raise awareness of ethics and integrity among MPs.
162. As to the judiciary, strengthening the independence of the justice system remains an outstanding issue. Some of the decisions of the Constitutional Court have been followed by suspension and dismissal of its judges, which may have an adverse effect on public trust towards judicial institutions as a whole⁵³. GRECO is satisfied that the criminal offence of "delivery of a knowingly unfair sentence, judgment, ruling or order by a judge" is no longer applicable, and warns against reinstating this criminal provision, as it would entail risks for undue pressure on the judiciary and pose a threat to its independence. Further, GRECO is concerned that not all judicial self-governing bodies have resumed functioning after being suspended for a considerable period of time, as this leaves the judiciary without adequate mechanisms for recruitment, internal supervision, and protection from undue influences. No progress has been reported on introducing clear, uniform and objective criteria for periodic evaluation of judges, and the judges are still allowed to take part in their own recusal proceedings, with no appeal avenues against recusal decisions. There are still no clear definitions of disciplinary offences relating to judges' conduct. The election of new composition of the Ethics' Committee and the adoption of legislation to re-launch the High Qualification Commission are encouraging. However, more needs to be done to effectively safeguard the independence of the judiciary.
163. As regards prosecutors, the long-lasting suspension of the operation of self-governing prosecutorial bodies responsible for recruitment, dismissal, and disciplinary oversight is gradually being remedied: the relevant body conducting disciplinary proceedings, also competent for recruitment and promotion decisions in the prosecution, has become operational. However, its composition does not yet have an absolute majority of prosecutors elected by their peers. Some draft legislation appears to be in preparation in this respect, but the process is at an early stage. New procedures have been put in place regarding promotion of prosecutors, setting out specific criteria; that said, this new system is very recent, and some further measures are still in the pipeline. It is now possible to appeal against decisions on promotion, which is a welcome development. GRECO insists that a system of random allocation of cases should be put in place as a safeguard against manipulation and undue influence.

⁵² GRECO refers to the position expressed in the joint letter by the President of GRECO, and the President of the Venice Commission addressed to the Speaker of Parliament on 31 October 2020. The letter may be consulted on the following website: <https://www.coe.int/en/web/greco/-/letter-from-the-presidents-of-the-venice-commission-and-greco-to-ukraine>

⁵³ In particular, reference is made to the suspension and dismissal by the President of Ukraine of the President of the Constitutional Court, allegedly, in violation of constitutional provisions and other legislation (see the joint letter of the President of GRECO and the President of the Venice Commission of 31 October 2020, via the following link: <https://www.coe.int/en/web/greco/-/letter-from-the-presidents-of-the-venice-commission-and-greco-to-ukraine>).

Some guidelines have been developed on conflicts of interest, gifts and other integrity-related matters, but no legal provisions have adopted to allow appeals against decisions concerning recusal of prosecutors. Further, precise definitions of prosecutors' disciplinary offences have still not been introduced. Finally, training sessions for prosecutors on ethics and integrity have been initiated by the Training Centre for Prosecutors, and confidential advice is available.

164. In light of the foregoing, GRECO notes that the current level of compliance with the recommendations is now "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. Pursuant to paragraph 2, sub-paragraph i, of Article 32 of the Rules of Procedure, GRECO asks the head of the Ukrainian delegation to provide a report on the measures taken to implement the outstanding recommendations (namely, recommendations ii-iv, iv-x, xii, xiv, xv, xvii-xix, and xxiii-xxxi) as soon as possible, but – at the latest – by 31 December 2022.
165. Finally, GRECO invites the authorities of Ukraine to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.