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

INTERIM COMPLIANCE REPORT BOSNIA AND HERZEGOVINA

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

I. INTRODUCTION

1. This interim compliance report assesses the measures taken by the authorities of Bosnia and Herzegovina to implement the recommendations in the Fourth Round Evaluation Report on Bosnia and Herzegovina (see paragraph 2) on “corruption prevention in respect of members of parliament, judges and prosecutors”.
2. GRECO adopted the Fourth Round Evaluation Report on Bosnia and Herzegovina at its 70th plenary meeting (4 December 2015) and it was made public on 22 February 2016, following authorisation by Bosnia and Herzegovina ([GrecoEvalIVRep\(2015\)32E](#)). The corresponding compliance report was adopted by GRECO at its 79th Plenary Meeting (23 March 2018) and made public on 22 May 2018 ([GrecoRC4\(2017\)22](#)).
3. The Second Compliance Report ([GrecoRC4\(2020\)6](#)), adopted by GRECO at its 85th plenary meeting (25 September 2020) and published on 16 December 2020, following the authorisation of Bosnia and Herzegovina, concluded that in view of the lack of tangible progress in implementing GRECO’s recommendations, the very low level of compliance with the recommendations was “globally unsatisfactory” in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the Evaluation Report, and requested the Head of delegation of Bosnia and Herzegovina to provide a report on the progress in implementing the pending recommendations (i-xv). The report was received on 30 September 2021 and has served as the basis for this Interim Compliance Report.
4. GRECO selected Spain (with respect to members of parliament) and North Macedonia (with respect to judges and prosecutors) to appoint rapporteurs for the compliance procedure. The rapporteurs appointed were Mr Rafael VAILLO, on behalf of Spain and Ms Ana PAVLOVSKA DANEVA, on behalf of North Macedonia. They were assisted by GRECO’s Secretariat in drawing up the Compliance Report.
5. This Interim Compliance Report assesses the implementation of the recommendations still pending since adoption of the Second Compliance Report and offers an overall evaluation of the level of compliance of Bosnia and Herzegovina with these recommendations.

II. ANALYSIS

6. It is recalled that GRECO addressed 15 recommendations to Bosnia and Herzegovina in its Evaluation Report. In the Second Compliance Report, GRECO concluded that recommendations i, ii, iv, v, vi, vii, ix, xi, xii, xiv and xv had been partly implemented, and recommendations iii, viii, x and xiii had not been implemented. Compliance with the 15 pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendation i.

7. *GRECO recommended (i) introducing precise rules defining and facilitating public consultation processes of legislation in Parliament, and assuring effective compliance thereafter; and (ii) enhancing the transparency of the parliamentary process by introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process.*

8. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report: some measures had been taken to facilitate public consultation on legislative proposals and their discussion in Parliament, but no tangible steps had been reported as regards introducing rules for parliamentarians on their interaction with third parties.
9. The authorities of Bosnia and Herzegovina now refer to different means of public consultations¹ on legislative acts and disseminating information² about the work of the National Assembly of the Republika Srpska. The Rules of Procedure of this National Assembly (Article 47) allow the representatives of civil society organisations, trade unions and associations applying for annual accreditation to attend sessions of the National Assembly and its committees. The same Rules of Procedure (Article 186) also enable municipal and city assemblies, companies, political and other organisations to submit to the President of the National Assembly initiatives for passing laws or other acts.
10. GRECO takes note of the information provided, of which none relate to the second part of the recommendation. While the first part had already been dealt with in a satisfactory manner in the Compliance Report, the persisting lack of progress in the adoption of rules for parliamentarians on their interaction with third parties is regrettable. GRECO calls upon the authorities to take resolute steps to implement this part of the recommendation.
11. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

12. *GRECO recommended that internal mechanisms be further articulated to promote and enforce the Code of Conduct for parliamentarians and thereby safeguard integrity within the legislature, including by (i) providing tailored guidance, counselling and training regarding ethical, integrity and corruption prevention related provisions, as well as (ii) developing effective oversight and compliance tools on these critical matters.*
13. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. In particular, the information provided had been limited to one canton only and had not addressed any of the two parts of this recommendation. Moreover, no reference had been made to monitoring reports regarding the implementation of the Code of Conduct for parliamentarians.
14. The authorities now report that the National Assembly of the Republika Srpska adopted the Code of Conduct for its deputies. The Ethics Committee, consisting of five members elected from among the deputies, is responsible for monitoring compliance with the provisions of the Code of Conduct, and may initiate proceedings and impose sanctions for violations. The Ethics Committee also submits annual reports on its work to the National Assembly. According to the authorities, so far only one procedure has been initiated for violation of the Code of Conduct. No annual reports have been submitted to the National Assembly as yet.
15. GRECO takes note of the information provided. As was the case in the Second Compliance Report, the information is limited to one entity and does not address any of the two aspects of the present recommendation. GRECO notes that the Code of Conduct of the National Assembly of the Republika Srpska, referred to by the

¹ Public hearings, thematic sessions, public debates, expert debates etc.

² In particular, the website of the Assembly, containing materials and minutes of sittings, parliamentary questions, reports of working bodies and other activities, public procurement information etc. In addition, all interested media may download video and audio recordings of the assembly sessions.

authorities, has been adopted on 13 September 2017³, but only one procedure has been initiated for its violation since then. In addition, four years after the adoption of the Code of Conduct, no annual report has been submitted to the National Assembly. Overall, no progress has been demonstrated regarding the implementation of this recommendation.

16. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii.

17. *GRECO recommended harmonising the legislation on conflicts of interest throughout the national territory.*
18. It is recalled that this recommendation was not implemented in the Second Compliance Report. The draft Law on Conflict of Interest, previously submitted to Parliament, had been returned for consultations to the Government, and further procedures had been necessary prior to its examination in Parliament.
19. The authorities now refer to the Law on Prevention of Conflict of Interests in Governmental Institutions of the Republika Srpska, in force since 2008. Once a year, the National Assembly of this entity examines the Report of the Commission for Deciding on Conflicts of Interest in Governmental Institutions of Republika Srpska. Further, the Anti-Corruption Strategy of the Republika Srpska for 2018-2022, as well as the Action Plan for its implementation, was adopted. On 24 June 2021, the National Assembly of the Republika Srpska adopted a draft Law on Determining the Origin of Property and the Special Tax and submitted it for public discussion for a period of 90 days.
20. GRECO takes note of the information provided, which is limited to legislation dating back to 2008, and an anti-corruption strategy adopted at the level of one of the entities. The authorities no longer refer to the state-level draft Law on Prevention of Conflict of Interests, which had been in preparation at the time of the adoption of the Second Compliance Report. GRECO recalls that the objective of this recommendation is to harmonise legislation on conflicts of interest throughout the national territory. It would appear that this process has not even started.
21. GRECO concludes that recommendation iii remains not implemented.

Recommendation iv.

22. *GRECO recommended (i) unifying the applicable requirements regarding financial disclosure in one single declaration form; (ii) introducing a duty to report the property of close relatives and to provide an update in the event of significant change in the information to be reported in the course of the legislative mandate; and (iii) ensuring the publication of and easy access to financial information, with due regard to the privacy and security of parliamentarians and their close relatives subject to a reporting obligation.*
23. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. Only very partial information was provided by the authorities, limited to one canton, thus having no bearing on the situation at the state level.

³ See, in particular, information placed on the website of the National Assembly of the Republika Srpska (in Serbian): <https://www.narodnaskupstinars.net/?q=la/narodna-skup%C5%A1tina/kodeks>

24. The authorities once again refer to the possibility of submitting asset declarations and financial statements⁴ through a dedicated online application system provided by the Central Election Commission of Bosnia and Herzegovina (CEC)⁵ on its website. By way of example, the authorities report that all officials elected in the local elections of 2020 are under an obligation to submit financial statements at the beginning of their mandates. The authorities also refer to Article 12 of the Law on Prevention of Conflicts of Interest in Governmental Institutions of the Republika Srpska, which requires the deputies-elect to submit regular financial reports to the Commission for Deciding on Conflicts of Interest in Governmental Institutions of the Republika Srpska.
25. GRECO notes that no new information of relevance⁶ to this recommendation has been provided by the authorities. The application for submitting declarations and financial statements provided on the website of the CEC, as well as the legislation of the Republika Srpska referred to by the authorities, were already in place at the time of the adoption of the Compliance Report. With the prospect of the new state-level Law on Conflict of Interest now being uncertain (see paragraph 20), GRECO can only regret that no tangible progress has been made to introduce an obligation of members of parliament to report significant changes to assets and property in the course of the legislative mandate and to ensure publication of and easy access to financial reports.
26. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

27. *GRECO recommended (i) coupling the disclosure system with an effective control mechanism (including random verifications) and (ii) introducing appropriate sanctions for false reporting.*
28. It is recalled that this recommendation was partly implemented in the Compliance Report; a draft Law on Conflict of Interest had been submitted to Parliament, but was revoked at a later stage for additional consultations. No new information had been provided at the time of the adoption of the Second Compliance Report.
29. The authorities provide no information regarding this recommendation.
30. GRECO notes that no new developments have taken place, i.e. no progress has been made since the draft Law on Conflict of Interest had been revoked from Parliament. In present circumstances, GRECO cannot maintain its previous conclusion regarding this recommendation. Therefore, GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

31. *GRECO recommended that the advisory, supervisory and enforcement regime regarding conflicts of interest be completely reviewed and properly articulated, notably, by ensuring its independence and timeliness, and by making it effective through a system of appropriate sanctions.*
32. GRECO recalls that this recommendation was partly implemented in the Compliance Report, as the Commission for Deciding on Conflicts of Interest (CDCI) had taken

⁴ The authorities recall that this measure aims at improving the submission and registration of property records of elected officials at the beginning, or at the end of their mandate.

⁵ This application is said to ensure data accuracy and to facilitate the submission of financial statements.

⁶ Information regarding declaratory obligations of newly elected public officials in local elections held in 2020 is not relevant, as recommendation vi concerns members of parliaments at the state and entity levels.

practical steps to improve supervision of conflict of interest situations, and the draft Law on Conflict of Interest was pending before Parliament.. However, later on this draft had been returned for consultations, and no new information had been provided at the time of the adoption of the Second Compliance Report.

33. The authorities provide no information in relation to this recommendation.
34. In the absence of any new developments and the persistent lack of progress, GRECO now concludes that recommendation vi has not been implemented.

Recommendation vii.

35. *GRECO recommended that the respective parliaments of the Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina be invited, similarly, to take action in accordance with the recommendations issued in this section of the report.*
36. It is recalled that this recommendation was partly implemented in the Compliance Report. It had appeared that Entities were taking measures to enhance transparency, integrity and accountability in their respective legislatures, as they were in the process of elaboration and adoption of respective codes of conduct. No new information was provided at the time of the adoption of the Second Compliance Report.
37. The authorities provide no new information on any measures taken to implement this recommendation.
38. In view of the above, GRECO concludes that recommendation vii remains partly implemented.

Corruption prevention in respect of judges and prosecutors

Recommendation viii.

39. *GRECO recommended that determined legislative and operational measures be taken to strengthen the High Judicial and Prosecutorial Council's role in protecting the holders of judicial and prosecutorial offices from undue influences – both real and perceived – including by (i) providing for separate judicial and prosecutorial sub-councils; and (ii) avoiding an over-concentration of powers in the same hands concerning the different functions to be performed by members of the High Judicial and Prosecutorial Council; and (iii) ensuring that decisions of the High Judicial and Prosecutorial Council on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court.*
40. GRECO recalls that recommendation viii was not implemented in the Second Compliance Report. Some consultations involving ministries and Parliament had been carried out with a view to amending the Law on the High Judicial and Prosecutorial Council. However, draft amendments had not been submitted to Parliament for examination and adoption.
41. The authorities of Bosnia and Herzegovina now report that on 18 November 2020, the High Judicial and Prosecutorial Council (HJPC) adopted a favourable opinion on the draft Law on Amendments to the Law on the High Judicial and Prosecutorial Council, aimed at strengthening the integrity and accountability of HJPC members

and judicial office-holders⁷. On 23 June 2021, the draft law was submitted to the Parliamentary Assembly under accelerated procedure, but has not been adopted. Further, the authorities indicate that within one year from the entry into force of these amendments, the Parliamentary Assembly should adopt a new law on the HJPC. The authorities also specify that an Integrity Unit has already been established within the Secretariat of the HJPC.

42. GRECO takes note of the information provided by the authorities. It appears that the draft amendments to the Law on the HJPC have reached Parliament, which is a positive development. On the other hand, the authorities provide no information as to the extent the draft reflects the requirements of this recommendation⁸. Without being able to ascertain this key aspect, GRECO cannot consider this recommendation implemented, even partly.

43. GRECO concludes that recommendation viii remains not implemented.

Recommendation ix.

44. *GRECO recommended that further steps are taken to improve the performance appraisals (with a priority given to qualitative over quantitative criteria) to both enforce the high ethical and performance standards expected from judges and prosecutors and assist in identifying meritorious candidates for promotion.*

45. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report: the adoption of separate criteria for evaluating judges and prosecutors were well noted, but the evaluations of judges' performance had not been reserved to the judiciary itself, without any influence from the executive or legislative powers. Moreover, the separate evaluation commissions for judges and for prosecutors (recommendation viii) – a key aspect also for this recommendation – had not been established.

46. The authorities now report that the criteria for evaluating the work of judicial office-holders in courts and prosecutor's offices, adopted by the HJPC in 2018, were repealed by the Court of Bosnia and Herzegovina on 19 May 2020. According to the authorities, the Court ruled that the criteria introduced certain elements not prescribed by law, and that the HJPC had no jurisdiction to adopt the Rulebook containing the above-mentioned criteria. An appeal to review this decision, submitted by the HJPC, was rejected first by the Court of Bosnia and Herzegovina on 29 December 2020 and subsequently by the Constitutional Court of Bosnia and Herzegovina on 5 May 2021.

47. In light of these developments, on 29 December 2020, the HJPC adopted new criteria⁹ for performance evaluation in respect of all judicial office-holders in Bosnia and

⁷ According to the authorities, this draft introduces mandatory asset declarations for judges and prosecutors, specifies time limits for submitting declarations, defines cases when a mandate of the HJPC members should be terminated, describes conflict of interest situations, provides for the grounds for removal of the HJPC members etc.. The draft also prescribes disciplinary offenses for judges and prosecutors, statute of limitations for initiating disciplinary proceedings, and prohibitions on incompatible activities. In addition, the draft stipulates that during the term of office, and within one year following its expiry, the HJPC members may not be elected to vacant positions in the judiciary and vacant positions of senior civil servants in the Office of Disciplinary Counsel, or the HJPC Secretariat.

⁸ I.e. setting up separate judicial and prosecutorial sub-councils; avoiding over-concentration of powers concerning the different functions to be performed by members of the HJPC and allowing decisions of the HJPC on appointment, promotion and disciplinary liability to be appealed before a court.

⁹ The authorities report that the HJPC adopted, in particular, the following documents:

- Criteria for evaluating the performance of Prosecutors in Bosnia and Herzegovina,
- Criteria for evaluating the performance of Chief Prosecutors, Deputy Chief Prosecutors and Heads of Departments / Divisions of the Prosecutor's Offices in Bosnia and Herzegovina,

Herzegovina, applicable as of January 2021. The adopted criteria are said to include separate criteria for evaluating performance of judges and prosecutors and contain the following indicators: orientation standard and statistical quality of decisions, and timeliness of work. Having in mind the above-mentioned judgment, the new criteria for evaluating the performance of judicial office-holders no longer provides for analytical evaluation of their work.

48. GRECO takes note of the information provided by the authorities. It would appear that the previously adopted separate criteria for the evaluation of judges and prosecutors, giving due regard to qualitative performance assessment, had to be replaced by new performance evaluation guidelines, less focussed on qualitative assessment. It should also be noted that the establishment of separate evaluation commissions for judges and for prosecutors has still not materialised (recommendation viii).
49. In view of the above, GRECO cannot maintain its previous position regarding this recommendation, and concludes that recommendation ix has not been implemented.

Recommendation x.

50. *GRECO recommended (i) carrying out an analysis of the budgetary and staff situation in courts and prosecution offices, with a view to ensuring that the resources necessary are available and efficiently used across the judicial systems; and (ii) seeing to it that judicial resources are better prioritised with due regard for the gravity of cases.*
51. GRECO recalls that this recommendation was not implemented in the Second Compliance Report as no analysis from a budget and staffing angle had been undertaken to examine the reasons for backlog of court cases.
52. The authorities once again refer to regular analysis by the HJPC of the financial and human resources in courts in the context of the preparation of annual budget guidelines. Further, the authorities describe the complexity of the funding system of judicial institutions in Bosnia and Herzegovina and confirm the intention of the HJPC to pay significant attention to a more optimal planning of financial resources in accordance with the needs of the courts. The authorities also report that a detailed analysis of the current organisation and systematisation of posts, along with the work results of the courts, is expected to contribute to a more pertinent spending of the courts' funds. Further, the HJPC intends to initiate drafting a five-year financial plan for the judiciary. In the context of this exercise, a detailed analysis of the organisational setup and the systematisation of posts in the judiciary is planned for 2022.
53. GRECO takes note of the information provided by the authorities, which is limited to preparing annual budgets, as was the case at the time of the adoption of the Second Compliance Report. It appears that no analysis has been carried out from a budget and staffing angle to address the problems of backlogs of cases. Some measures are planned as of 2022 to address prioritisation of posts and financial resources in the judiciary, but these have not yet materialised. No information has been provided regarding the second part of this recommendation.

- Criteria for evaluating the work of the Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina, the Prosecutor's Office of the Federation of Bosnia and Herzegovina, the Prosecutor's Office of the Republika Srpska and the Prosecutor's Office of the Brčko District of Bosnia and Herzegovina,
- Criteria for evaluating the performance of judges in Bosnia and Herzegovina;
- Criteria for evaluating the work of court presidents and presidents of court departments in Bosnia and Herzegovina.

54. GRECO concludes that recommendation x remains not implemented.

Recommendation xi.

55. *GRECO recommended significantly strengthening and further developing – for judges and prosecutors – confidential counselling and dedicated training of a practical nature on issues of ethics and integrity.*

56. It is recalled that this recommendation was partly implemented in the Second Compliance Report: some further training to representatives of the judiciary and prosecution on ethics and integrity had been provided, and the manual for application of the relevant codes of ethics for judges and prosecutors had been developed. However, confidential counselling on ethics and integrity matters had still not been made available.

57. The authorities now report that on 24-25 March 2021, the High Judicial and Prosecutorial Council (HJPC) discussed the introduction of confidential counselling within judicial institutions and agreed to continue examining the matter, with a view to submitting it to the Council for decision. A workflow for initiating confidential counselling should be adopted by the HJPC by September 2022. In addition, on 15 July 2021, the HJPC formed a working group to prepare a new four-year cycle (2022-2025) for development and implementation of integrity plans for courts and prosecutors' offices.

58. The authorities also report several training initiatives implemented in the course of 2020¹⁰. By way of example, reference is made to sessions on ethics, with participation of 180 judges and prosecutors¹¹. Further, in March 2021, a new Rulebook was adopted on the procedure for selecting a "consultative prosecutor" with the aim to provide professional support and guidance to newly appointed prosecutors.

59. GRECO takes note of the information provided by the authorities. It would appear that different training activities on ethics and integrity continue for judges and prosecutors. Some initial consideration is underway regarding the introduction of confidential counselling, but the process is at an early stage, without any tangible results for the time being.

60. In view of the above, GRECO concludes that recommendation xi remains partly implemented.

¹⁰ In particular reference is made to pilot online training sessions for judicial officials in the fields of ethics, integrity and prevention of conflict of interests, organised by the entity centres for education of judges and prosecutors (CEST).

¹¹ The following trainings were held during the indicated period:

- CEST RS seminar for new appointees on the topic "Professional ethics of judges and prosecutors" "Disciplinary liability of judges and prosecutors in the legal system of Republika Srpska" held on November 6, 2020.
- CEST RS continuous training (online) on the topic "Ethics and integrity of judicial office holders" held on November 9, 2020.
- One-day workshop CEST FBiH for newly appointed (online) on "Ethics and Integrity - Ways of exchanging a culture of ethics and integrity in the judiciary" held on July 7, 2020, in cooperation with the EU4Justice project.
- CEST FBiH seminar for newly appointed (online) on "Ethics and Integrity" held on 17 and 18 December 2020, in cooperation with the IRZ Foundation.
- CEST FBiH seminar (online) on "Standards of Professional Ethics for Judges and Prosecutors", held on October 1, 2020, in cooperation with the OSCE Mission to BiH.
- CEST FBiH seminar (online) on "Ethics and Disciplinary Procedure", held on October 2, 2020, in cooperation with the OSCE.
- CEST FBiH seminar (online) on "Standards of professional ethics for judges and prosecutors", held on December 11, 2020.

Recommendation xii.

61. *GRECO recommended developing rules on conflicts of interest that apply to all judges and prosecutors, along with an adequate supervisory and enforcement regime.*
62. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report: some progress had been made in the setting up of a mechanism to enforce the application of the Guidelines for the prevention of conflicts of interest in the judiciary, but this work had not been completed.
63. The authorities now report that in September 2019, the HJPC transmitted the guidelines for the prevention of conflict of interests in the judiciary¹² to all courts, prosecutor's offices, judicial and prosecutorial training centres, the Office of the Disciplinary Prosecutor and all relevant departments of the HJPC¹³. Heads of these institutions and bodies were instructed to appoint persons to monitor the implementation of these guidelines. As to the implementation of integrity plans, in mid-October 2020 the judicial institutions in Bosnia and Herzegovina have submitted their reports on this matter for the year 2019. Following this, on 21 January 2021, the HJPC adopted the Annual Report on the Implementation of Integrity Plans in Judicial Institutions for 2019 and the recommendations to judicial institutions for the further implementation of these plans¹⁴.
64. GRECO takes note of the information provided by the authorities, in particular the reported dissemination of the Guidelines for the prevention of conflicts of interest in the judiciary and prosecution. At this stage, no new developments appear to have taken place as regards establishing an adequate supervisory and enforcement regime.
65. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiii.

66. *GRECO recommended (i) developing an effective system for reviewing annual financial statements, including adequate human and material resources, co-operation channels with relevant authorities and appropriate sanctions for non-compliance with the rules or false reporting and (ii) considering ensuring the publication of and easy access to financial information, with due regard to the privacy and security of judges, prosecutors and their close relatives.*
67. GRECO recalls that this recommendation was not implemented in the Second Compliance Report; a Rulebook of instructions on how to deal with financial statements had been adopted, with the HJPC in charge of monitoring such statements. However, this process had been interrupted following a dispute at court.

¹² The official title of the document is "Institutional Mechanisms and Records for the Implementation of the Instruments for Monitoring the Implementation of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary".

¹³ Thus, the judicial and prosecutorial institutions have been provided with supporting materials and forms required to establish the records regarding:

- additional activities of judicial office holders;
- receipt of gifts by judicial office holders and employees;
- *ex parte* communication between judicial office holders and employees;
- public appearances of judicial office holders;
- reports and disciplinary measures imposed against staff working under the supervision of judicial officials
- exemptions of judicial office-holders.

¹⁴ The Annual Report was also published on the HJPC website and transmitted to the Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption, as well as to the state and entity Ministries of Justice.

68. The authorities now report that in its judgment of 13 January 2021, the Court of Bosnia and Herzegovina rejected the HJPC claim against the Agency for Personal Data Protection in the administrative dispute regarding the application of the Rulebook on the submission, verification and processing of the financial statements of judges and prosecutors. The application of this Rulebook has therefore been suspended.
69. In February 2020 the HJPC sent a reminder to the Ministry of Justice of Bosnia and Herzegovina and the Parliamentary Assembly to initiate, as a matter of urgency, amendments to the relevant provisions of the law on the HJPC. Further, on 29 July 2020, the HJPC established within its structure the Department for Integrity of Judicial Officers, responsible, *inter alia*, for financial reporting and providing support to the Standing Committee on Ethics, Integrity and Accountability of Judges and Prosecutors (set up on 22 October 2020).
70. The authorities also state in respect of public disclosure of financial information that in 2020, out of a total of 1416 judicial office-holders under an obligation to submit financial declarations, 190 consented to publication of their declarations, which were published on the HJPC website. Furthermore, draft amendments to the Law on the High Judicial and Prosecutorial Council (paragraph 42) are said to envisage the publication of all financial statements of judicial office-holders on HJPC Internet site.
71. GRECO takes note of the developments reported by the authorities. It would appear that the previous Rulebook containing instructions on submitting financial statements and the role of the HJPC to monitor such statements is no longer in force, and no new measures have been taken to introduce new regulations in this respect. GRECO also notes that some financial declarations have been made public following consent by the judicial office-holders. This voluntary disclosure is a step in the right direction, and a mandatory disclosure is said to be included in draft legislation. However, this had not yet materialised.
72. GRECO concludes that recommendation xiii remains not implemented.

Recommendation xiv.

73. *GRECO recommended that (i) the independence, capacity and transparency of the activity of the Office of the Disciplinary Counsel be increased; and that (ii) the disciplinary procedure and sanctions in case of misconduct of judges and prosecutors be revised in order to ensure that cases are decided in a timely manner and that misconduct is effectively subject to proportionate and dissuasive sanctions.*
74. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. The adoption of the Manual on Disciplinary Procedures was welcomed and further efforts were underway to raise awareness of disciplinary proceedings among relevant officials. Nonetheless, preparation of numerous guiding documents, as well as training efforts, had not translated into their application in practice, as no examples of application of proportionate and dissuasive sanctions had been provided.
75. The authorities now report that by 31 December 2020, the number of unresolved cases in the Office of the Disciplinary Prosecutor (ODP) decreased by 24% (470 complaints, compared to 621 by the end of December 2019), while the inflow of complaints has increased to up to 122.7% of the previous year. The average time to resolve complaints in 2020 was also shorter than in 2019 (276 vs 307 days). Further, 31 disciplinary proceedings were initiated against judicial office-holders, of which 12 proceedings were instituted against judicial office-holders in respect of whom disciplinary proceedings had already been conducted. The Prosecutor's Office of the Brcko District resolved all reports received in 2020 and there were no cases

terminated due to the statute of limitations of criminal prosecution for subjective reasons.

76. Additional efforts are reported to raise awareness of the disciplinary proceedings among judicial office-holders. Thus, on 19-20 May 2021 the HJPC took note of the Criminal Policy Analysis by types of disciplinary decisions and types of disciplinary offenses, which was also published on its website. The HJPC intends using this document in further activities to improve disciplinary proceedings and in training programs for the members of disciplinary commissions. The authorities report that in January – June 2021, some 17 disciplinary proceedings were finalised, including three initiated in 2019, 13 in 2020, and one initiated in 2021. Of these, seven were terminated by “an agreement of common consent”. Sanctions imposed in 2021 included written warning (two cases), public reprimand (three cases), salary reduction (nine cases), salary reduction and special measures (one case), dismissal (one case) dismissal of the complaint (one case).
77. GRECO takes note of the information provided by the authorities. It would appear that no further measures have been taken to increase the independence and transparency of the ODP¹⁵. GRECO recalls that addressing this part of the recommendation remains contingent of the adoption of draft amendments to the Law on HJPC (recommendation viii). As to the second part, the information provided indicates a slight decrease in respect of pending disciplinary cases. On the other hand, disciplinary procedures may still take well over a year. No revision of sanctions has taken place. Overall, no sufficient progress has been achieved to consider this recommendation implemented more than partly.
78. GRECO concludes that recommendation xiv remains partly implemented.

Recommendation xv.

79. *GRECO recommended that a communication policy, including general guidelines and training on how to communicate with the media and the relevant civil society organisations, be developed for the judicial system (judges and prosecutors) with the aim of enhancing transparency and accountability.*
80. It is recalled that this recommendation was partly implemented in the Compliance Report: some training activities had continued, and promising initiatives had been envisaged under the Justice Sector Reform Strategy 2014-2018. However, no measures as regards developing a communication policy for the judicial system had been reported. No progress was noted in the Second Compliance Report.
81. The authorities now report that on 23-24 June 2021, the HJPC approved the Draft Communication Strategy, which has subsequently been submitted for consultation to the judicial community, the media and international institutions. Following this consultation, it has been decided to accompany the Strategy with an implementation action plan, which currently being finalised. The adoption of the Communication Strategy and its action plan is expected in December 2021. Further, on 15 July 2021, the HJPC adopted its draft Communication Plan¹⁶ in the area of ethics, integrity and prevention of conflicts of interest. This document is the basis for the continuous planning of specific activities in two areas: increasing the level of ethics and integrity in the judiciary, and improving communication within the judiciary, as well as communication of the HJPC with other target groups. The authorities also report that on 20 October 2021, the HJPC approved the Guide to the Crisis Communication for

¹⁵ As to the capacity of the ODP, it is recalled that three additional disciplinary prosecutors and two staff members were recruited by the HJPC in September 2018.

¹⁶ The development of this document was supported by the USAID project entitled “Judiciary Against Corruption”.

the courts and prosecutors' offices in Bosnia and Herzegovina to facilitate communication during crisis situations.

82. In addition, the authorities report that the HJPC, in cooperation with the CESTs of the entities, regularly organises training sessions on the topic of "Modern communication with the media". Further, to enhance transparency of judicial system, the HJPC developed Guidelines for reporting on court proceedings, intended for courts.
83. GRECO takes note of the information provided. It would appear that the draft Communication Strategy is in the process of consultation with several stakeholders, which is a positive development. The work in progress on the communication plan in the field of ethics and integrity, as well as on guidelines to report on court proceedings, are also encouraging. The adoption and implementation of these documents may very well satisfy the requirements of this recommendation. However, GRECO can only make an informed assessment, once the draft Communication Strategy and the Guidelines for reporting on court proceedings have been adopted, and their content has been made available.
84. GRECO concludes that recommendation xv remains partly implemented.

III. CONCLUSIONS

85. **In view of the foregoing, GRECO concludes that only some limited measures have been taken by Bosnia and Herzegovina to comply with the pending recommendations under the Fourth Evaluation Round. None of the fifteen recommendations contained in the Fourth Round Evaluation Report have been implemented satisfactorily.** Eight recommendations have been partly implemented and seven have not been implemented.
86. More specifically, recommendations i, ii, iv, vii, xi, xii, xiv and xv have been partly implemented and recommendations iii, v, vi, viii, ix, x and xiii have not been implemented.
87. With respect to members of parliament, no new developments have taken place to strengthen the integrity system. Appropriate rules have still not been introduced for parliamentarians to regulate their interaction with third parties, and members of Parliament still lack advisory and training opportunities on corruption prevention. No new information was provided as regards monitoring reports on the implementation of the Code of Conduct for parliamentarians in practice. Stalemate continues as regards the new Law on Conflicts of Interest, which now is no longer in the consideration. No credible and independent mechanism has been put in place for preventing and solving conflicts of interest, or ensuring verifications of asset declarations by State-level MPs.
88. Regarding judges and prosecutors, the draft amendments to the Law on the High Judicial and Prosecutorial Council have now been submitted to Parliament, but have not yet been adopted. Separate judicial and prosecutorial departments and sub-commissions are yet to be established within the HJPC structures. The criteria adopted in 2018 for evaluating the performance of judges and prosecutors have been invalidated, and new criteria to fill this gap do not appear as comprehensive in terms of qualitative evaluation. Moreover, there are still no guarantees of non-interference from the executive and the legislative powers during these evaluations. No budgetary and staff analysis relating to problems of backlogs of cases has been carried out. Promising initial steps are made to introduce confidential counselling for judicial office-holders, and adopt a Communication Strategy for the judiciary, but they have not yet materialised.

89. In view of insufficient progress overall in implementing GRECO's recommendations since the Second Compliance Report, GRECO concludes that the very low level of compliance with the recommendations remains "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the Evaluation Report, and asks the Head of delegation of Bosnia and Herzegovina to provide a report on the progress in implementing the pending recommendations (i-xv) as soon as possible – at the latest – by 31 December 2022.
90. In addition, in accordance with Rule 32, paragraph 2, sub-paragraph (ii.a), GRECO invites its President to send a letter – with a copy to the President of the Statutory Committee – to the head of the delegation of Bosnia and Herzegovina, drawing his attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
91. Finally, GRECO invites the authorities of Bosnia and Herzegovina to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.