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## FOURTH EVALUATION ROUND

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

### SECOND *INTERIM* COMPLIANCE REPORT

### BOSNIA AND HERZEGOVINA

Adopted by GRECO at its 93<sup>rd</sup> Plenary Meeting  
(Strasbourg, 20 – 24 March 2023)

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## **I. INTRODUCTION**

1. The Second *Interim* Compliance Report assesses the measures taken by the authorities of Bosnia and Herzegovina to implement the recommendations issued 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 70<sup>th</sup> plenary meeting (on 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 79<sup>th</sup> Plenary Meeting (on 23 March 2018) and made public on 22 May 2018 ([GrecoRC4\(2017\)22](#)), following authorisation by Bosnia and Herzegovina.
3. The Second Compliance Report ([GrecoRC4\(2020\)6](#)), adopted by GRECO at its 85<sup>th</sup> plenary meeting (on 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.
4. In the *Interim* Compliance Report ([GrecoRC4\(2021\)21](#)), adopted by GRECO at its 89<sup>th</sup> plenary meeting (on 3 December 2021) and made public on 1 September 2022, following authorisation by Bosnia and Herzegovina, GRECO concluded that none of the fifteen recommendations contained in the Fourth Round Evaluation Report had been implemented satisfactorily. Eight recommendations had been partly implemented and seven had not been implemented. In light of these results, GRECO concluded that the very low level of compliance with the recommendations remained “globally unsatisfactory”. GRECO asked the Head of the delegation of Bosnia and Herzegovina to provide a report on the measures taken to implement the outstanding recommendations (i-xv) by 31 December 2022 at the latest. That report was received on 23 December 2022 and served as a basis for the current Second *Interim* Compliance Report.
5. 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 Ms Mercedes PEREZ SANZ, 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 *Interim* Compliance Report.

## **II. ANALYSIS**

6. GRECO, in its Fourth Round Evaluation Report, addressed 15 recommendations to Bosnia and Herzegovina. In the *Interim* Compliance Report, GRECO concluded that recommendations i, ii, iv, vii, xi, xii, xiv and xv had been partly implemented, and recommendations iii, v, vi, viii, ix, x and xiii had not been implemented. Compliance with the 15 outstanding recommendations is dealt with 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. It is recalled that, in previous compliance reports, GRECO considered this recommendation partly implemented. The first part of the recommendation had already been dealt with in a satisfactory manner in the Compliance Report, following new legislative and practical actions reported to facilitate public consultation of legislative proposals. As regards the second part of the recommendation, GRECO regretted, in the *Interim* Compliance Report, the persisting lack of progress in the adoption of rules for parliamentarians on their interaction with third parties and called upon the authorities to take resolute steps to implement this part of the recommendation.
9. The authorities of Bosnia and Herzegovina refer to various rules adopted by the Government and the National Assembly of Republika Srpska to facilitate public participation and consultancy in the process of drafting laws (Article 114 of the Law on Republican Administration, Guidelines for conduct of the administrative bodies, Rules for Drafting Laws and Other Regulations).
10. GRECO takes note of the information provided. It recalls that consultation processes of legislation in Parliament was deemed to be ensured and regrets that the authorities have provided no new information as to the second part of the recommendation which is about introducing rules on how MPs should act in respect of third parties (e.g. lobbyists, etc.). GRECO infers that there has been no change to the situation since the *Interim* Compliance Report in this respect.
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 in the *Interim* Compliance Report this recommendation was partly implemented. GRECO noted that the Code of Conduct of the National Assembly of the Republika Srpska, referred to by the authorities, had been adopted on 13 September 2017, but only one procedure had been initiated for its violation since then. Overall, no progress had been demonstrated regarding the implementation of this recommendation.
14. The authorities now refer to a series of meetings initiated in 2022 by the Agency for the Prevention of Corruption and Coordination of Fight Against Corruption of Bosnia and Herzegovina (APIK) with the Agency for the Prevention of Corruption of Montenegro, Serbia and North Macedonia. The aim of these meetings was to exchange experiences on the Law on Lobbying and the role of state anti-corruption bodies in the process of initiating and adopting legislation on lobbying.
15. GRECO takes note of the information provided, which does not directly address the substance of the recommendation. In the absence of additional information, GRECO

considers that no tangible progress has been made to implement the 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 *Interim Compliance Report* as the process aiming at harmonising the legislation on conflicts of interest throughout the national territory had not started.
19. The authorities now indicate that the National Assembly of Republika Srpska adopted the Law on Determining the Origin of Property and Special Tax on Property on 10 February 2022.
20. GRECO notes that no new information of relevance to this recommendation has been provided by the authorities. It regrets that the draft Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, which was referred to in previous reports, has been stuck in the parliamentary procedure since 2017 and has failed to be adopted so far. Therefore, there has been no progress regarding the implementation of this recommendation.
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 Compliance Report, as asset declarations were publicly accessible online, which partially satisfied the last component of this recommendation. In the *Interim Compliance Report*, GRECO regretted that no tangible progress had 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.
24. The authorities have provided no further information as to the progress of implementation of this recommendation.
25. GRECO concludes that recommendation iv remains partly implemented.

### **Recommendation v**

26. *GRECO recommended (i) coupling the disclosure system with an effective control mechanism (including random verifications) and (ii) introducing appropriate sanctions for false reporting.*

27. It is recalled that, in the *Interim* Compliance Report, this recommendation was not implemented. GRECO could not maintain its previous conclusion regarding this recommendation, which had been considered partly implemented in the Compliance Report, since a draft Law on Conflict of Interest had been revoked from Parliament.
28. The authorities have provided no further information in respect of the implementation of this recommendation.
29. GRECO concludes that recommendation v has not been implemented.

#### **Recommendation vi**

30. *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.*
31. It is recalled that this recommendation was not implemented in the *Interim* Compliance Report, in the absence of any new developments and the persistent lack of progress.
32. The authorities provide no new information in relation to this recommendation.
33. GRECO concludes that recommendation vi has not been implemented.

#### **Recommendation vii**

34. *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.*
35. It is recalled that this recommendation was partly implemented in the Compliance Report, which took note of the Entities' efforts to enhance transparency, integrity and accountability in their respective legislatures. It remained partly implemented in the *Interim* Compliance Report.
36. The authorities now report that the Assembly of the Brčko District of Bosnia and Herzegovina adopted the Law on Prevention of Conflict of Interests in the Institutions of the Brčko District on 24 March 2021. This Law prescribes special obligations for holders of public office, including members of parliament, at the level of the Brčko District, so as to prevent conflict of interests in the performance of official duties. It contains clear guidelines on situations of conflict of interests, reporting requirements, an asset declaration and verification process, as well as rules on incompatibilities. The Law also establishes a Commission for Deciding on Conflict of Interests, a permanent, independent and autonomous body, composed of a president and two members appointed for a term of five years, renewable once. The Commission can impose various sanctions (fine, proposal for dismissal from public office, call for resignation, warning) in case it finds a violation of the Law. The Commission's decisions are final, but can be disputed in an administrative procedure before the Basic Court of Brčko District. The Assembly of the Brčko District appointed the Commission's president and members on 16 June 2021.
37. GRECO welcomes the adoption of a comprehensive law on Prevention of Conflict of Interests at the level of the Brčko District. This law covers a number of integrity-related issues relevant for the parliament of the Brčko District, with an enforcement mechanism. While the adoption of this Law represents a positive step, it is limited to

one of the entities and therefore not sufficient for GRECO at this stage to consider this recommendation as more than partly implemented.

38. 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 this recommendation was not implemented in the *Interim Compliance Report*. Draft amendments to the Law on the High Judicial and Prosecutorial Council (HJPC) had reached Parliament, which was a positive development. However, no information had been provided as to the extent the draft reflected the requirements of this recommendation.
41. The authorities of Bosnia and Herzegovina now report that the draft Law on Amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, proposed by the Council of Ministers in June 2021, was rejected by the House of Peoples in May 2022, though it was initially adopted by the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina. They further state that, in the course of 2022, the Ministry of Justice of Bosnia and Herzegovina prepared a new Draft Law on Amendments to the Law on the HJPC, the provisions of which were harmonised with the Opinion of the Venice Commission,<sup>1</sup> as well as with preliminary comments of the European Commission, to which the draft law was also submitted for consideration. The draft Law is to resolve issues such as conflict of interests of members of the HJPC, asset declarations for judges and prosecutors, including members of the HJPC, and their verification, the functioning of the Department for Integrity within the HJPC Secretariat, legal remedies against decisions on appointment, and contain certain amendments relating to disciplinary offenses and disciplinary proceedings conducted against judges, prosecutors and members of the HJPC. The draft Law has been forwarded to the Council of Ministers for approval, which will be followed by its submission to the Parliamentary Assembly for adoption. In addition, on 29 August 2022, the Ministry of Justice submitted to the HJPC for consultation the new draft Law, which was considered and elaborated upon at the HJPC's session held on 28 September 2022. In its opinion, the HJPC stated its support for the draft Law and made some specific proposals aimed at ensuring coherence and clarity of the draft text.
42. GRECO takes note of the information provided by the authorities. While there appears to be ongoing legislative work of relevance to this recommendation, with a new draft Law on Amendments to the Law on the HJPC prepared by the Ministry of Justice in 2022, there has been no concrete outcome as yet to address the specific aspects of the recommendation, *i.e.* setting up separate judicial and prosecutorial sub-councils; avoiding over-concentration of powers concerning the different functions to be

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<sup>1</sup> [Bosnia and Herzegovina - Opinion on the draft Law on amendments to the Law on the High Judicial and Prosecutorial Council, adopted by the Venice Commission at its 126th Plenary Session \(online, 19-20 March 2021\).](#)

performed by members of the HJPC and allowing decisions of the HJPC on appointment, promotion and disciplinary liability to be appealed before a court. GRECO urges the authorities to take these aspects into consideration in relation to the drafting of a law on the HJPC.

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 not implemented in the *Interim Compliance Report*. GRECO noted 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.
46. The authorities now report that all courts and prosecutor's offices in Bosnia and Herzegovina, including the Court of Bosnia and Herzegovina, have evaluated the performance of judicial office holders for 2021 in accordance with the criteria adopted by the HJPC on 29 December 2020. Following the results of the analysis of the 2021 evaluation procedure, the HJPC adopted, in a session on 21 and 22 December 2022, new performance evaluation criteria for judicial office holders in the courts and prosecutor's offices, which are applied in monitoring and evaluating the performance of all judicial office holders in Bosnia and Herzegovina (judges, court presidents, prosecutors, chief prosecutors, deputies of chief prosecutors and department heads in prosecutor's offices), starting from 2023. The authorities underline that the objective of the new criteria is to enable the evaluators (chief prosecutors/presidents of courts) to apply an improved scoring scales in the evaluation of performance according to certain quantitative criteria (for example, scoring statistical quality of prosecutorial decisions, implementation of backlog reduction plans in courts and prosecutor's offices), and to remove from the criteria the additional elements for the evaluation of work (so-called special evaluation cases), in order to eliminate the possibility of evaluators arbitrarily scoring in the evaluation procedure on this basis. In addition, the following elements of analytical performance evaluation are included: timeliness of judges in their work, organisation and management of the court work, prosecutor's attitude towards work and organisation and management of the prosecutor's office and departments. Finally, on 18 January 2023, the HJPC adopted instructions for the application of these criteria for performance evaluation, thus enabling evaluators to consistently apply the above analytical elements.
47. GRECO takes note of the information provided by the authorities. GRECO welcomes the progress made towards improving the performance evaluation system of judges and prosecutors, with the adoption of new criteria of evaluation which are to be applied as of 2023, but is of the view that - for the recommendation to be fully implemented - more information is needed on the implementation of these new criteria in practice and its results.
48. GRECO concludes that recommendation ix has been partly implemented.

#### **Recommendation x**

49. *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.*

50. GRECO recalls that this recommendation was not implemented in the *Interim Compliance Report*, as no analysis had been carried out from a budget and staffing angle to address the problems of backlogs of cases. Some measures were planned as of 2022 to address prioritisation of posts and financial resources in the judiciary, but had not yet materialised.
51. The authorities once again refer to the annual analysis of the financial and human resources in courts and in the prosecutor's offices conducted by the HJPC, which contributes to the preparation of the budget guidelines for judicial institutions in the following year. Activities are to be undertaken to strengthen the HJPC's role for both the preparation of the courts' budgets and negotiations with relevant bodies of the executive and legislative authorities in assessing the optimal budget resources for the courts. The authorities also report that, in the third quarter of 2022, both regular and project activities of the HJPC were directed towards the establishment of an innovative process for creating and monitoring the budget processes relating to courts. In cooperation with the ICT Department of the HJPC Secretariat, a detailed technical specification for software development was developed, and, in March 2023, a call for recruitment of external experts to develop software solutions on this basis will be publicised. Software solution is to provide for an easy and speedy recording of necessary data and be a starting point for timely decision-making on optimal budget resources for the courts.
52. In relation to the second part of the recommendation, the authorities indicate that the process of digitalising the budgeting systems of prosecutor's offices is underway. Once the budgeting system is fully digitalised, the authorities state that it will be possible to precisely monitor the allocation of prosecutorial resources to individual cases, taking into account the parameters relating to the "seriousness and complexity of the case".
53. GRECO takes note of the information provided by the authorities. No new developments have taken place with regard to the first part of the recommendation. GRECO considers that the only tangible measure underway, which relates to the digitalisation of budgeting systems for a better prioritisation of prosecutorial resources depending on the seriousness of the case, is not enough in itself to consider this recommendation to be even partly implemented.
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 in previous reports, this recommendation was partly implemented. In the *Interim Compliance Report*, GRECO noted that different training activities on ethics and integrity had been provided to judges and prosecutors and some initial consideration was underway regarding the introduction of confidential counselling, but the process was still at an early stage.
57. The authorities now report that on 9-10 February 2022, the Standing Commission for Integrity, Ethics and Accountability of Judges and Prosecutors examined the issue of confidential counselling, supporting the introduction of a "combined system" for



judges and prosecutors. Such a system is to combine confidential consultations for holders of judicial functions within the activities of the HJPC with confidential consultations within each judicial institution. According to the authorities, this seems a realistic option as it provides for an optimal manner of solving the ethical dilemmas of judges and prosecutors. On 6-7 July 2022, the HJPC considered the procedure for establishing a system of confidential counselling in the judiciary of Bosnia and Herzegovina and adopted a roadmap of activities for the introduction of this system.<sup>2</sup> The combined model of confidential consultations notably implies the identification of the HJPC's structures responsible for confidential counselling, as well as the departments and staff of the HJPC Secretariat for support of its implementation.

58. As regards dedicated training, the authorities indicate that a number of judges and prosecutors participated in trainings on integrity rolled out during 2021/2022.<sup>3</sup> Following the decision of the HJPC of 16 December 2021 on approving the curriculum for initial trainings and professional development in 2022, all holders of judicial functions are obliged to attend the online module on ethics, integrity and prevention of conflict of interests.
59. GRECO notes with satisfaction that training activities on ethics and integrity have regularly taken place at entities level and that ethics training has been made obligatory. Furthermore, it notes that a combined system of confidential counselling for judges and prosecutors appears to be in the process of being implemented. GRECO does not find such a combined system for judges and prosecutors appropriate, as these professions are basically different, should be independent from each other and need to be treated as such. This also follows from recommendation viii, where GRECO recommended the establishment of separate sub-councils for judges and prosecutors. GRECO urges the authorities to establish separate systems for judges and prosecutors in respect of confidential counselling. Pending the implementation of appropriate systems of confidential counselling, this recommendation has not been fully complied with.
60. GRECO concludes that recommendation xi remains partly implemented.

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<sup>2</sup> Within this framework, the following activities are planned:

- Adoption by the HJPC of a decision on establishment of a system for confidential counselling in the judiciary to specify: (1) which body will provide such confidential counselling (the Standing Commission for Ethics, Integrity and Accountability or another body yet to be established), hereinafter the "advisory body"; (2) which structures within the HJPC Secretariat will provide the advisory body with support; (3) mean (channel) of communication for confidential counselling to be used by judges and prosecutors; and (4) dynamics of implementation of the decision;
- Determination of content of mandatory initial training to be attended by persons participating in the process of confidential counselling;
- Organisation of a campaign to inform on the subject and advocate among professional community;
- Preparation and implementation of activities on setting a legal framework for conducting the confidential counselling;
- Adoption of an online application for inquiries/requests on confidential counselling and provision of responses by the counselling body;
- Set up of a mechanism for evaluating the implementation of the confidential counselling system at the level of the HJPC.

<sup>3</sup> This includes the following trainings:

- Continuous (online) training "Professional ethics of judges and prosecutors and disciplinary accountability of judges and prosecutors in the legal system of the Republika Srpska" organised by the Centre for Judicial and Prosecutorial Trainings of the Republika Srpska on 18 March 2021;
- One-day online workshop for judges and prosecutors on "Judicial ethics and disciplinary practices" organised by the Centre for Judicial and Prosecutorial Trainings of the Federation of Bosnia and Herzegovina (FBIH CEST) on 24 February 2021;
- One-day online training for interns on "Ethics and integrity" organised by the FBIH CEST on 21 May 2021;
- One-day online training for judges and prosecutors on "Ethics in the judiciary" organised by the FBIH CEST on 28 September 2021;
- One-day course for judges and prosecutors on "Judicial and prosecutorial ethics" organised by the FBIH CEST on 18 October 2021;
- One-day workshop for newly appointed judges and prosecutors on "Ethics and Integrity" organised by the FBIH CEST on 17 and 18 November 2021.

## **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. It is recalled that in previous reports, this recommendation was partly implemented, following the adoption of Guidelines for the prevention of conflicts of interest in the judiciary. In the *Interim Compliance Report*, GRECO took note of the reported dissemination of these Guidelines, but an effective system for supervision and enforcement regime to ensure observance of rules on conflicts of interest was still missing.
63. The authorities now report that the implementation of the Guidelines for the prevention of conflict of interests in the judiciary is being monitored through institutional mechanisms and records since the beginning of 2021.<sup>4</sup> Accordingly, the heads of judicial institutions and bodies have to maintain registers and records on e.g. additional activities, gifts and public appearances of holders of judicial office. A "Preliminary analysis of records on application of instruments for monitoring the implementation of the Guidelines for prevention of conflict of interests in the judiciary during 2021" was presented on 18 May 2022. This preliminary analysis included the records of 100 judicial institutions in Bosnia and Herzegovina with a total of 1,879 entries contained in 6 separate records. It is expected that further measures will be developed, including the monitoring of the accuracy of entries and of the timeliness of submissions of relevant data to the HJPC.
64. As to the implementation of integrity plans, in the first half of 2022 the judicial institutions in Bosnia and Herzegovina have submitted their reports on this matter for the year 2021. Following this, on 9 November 2022, the HJPC adopted the Annual Report on the implementation of integrity plans in judicial institutions in 2021 as well as recommendations to judicial institutions for the further implementation of these plans.
65. GRECO takes note of the information supplied by the authorities, in particular the mechanisms developed to monitor the implementation of the Guidelines for the prevention of conflicts of interest in the judiciary. GRECO is thus satisfied that there is a system dedicated to monitoring specifically the implementation of the integrity standards on conflicts of interest contained in the Guidelines. However, as frequently underlined by GRECO, enforcement implies some form of sanction depending on the breach and its severity. At this stage, it appears that the monitoring carried out is limited to the collection and analysis of relevant data, without any other consequences. GRECO underlines that the success of the Guidelines will depend on its effective enforcement, including the application of sanctions in case of breach, and is looking forward to receiving more specific information in this regard.
66. In view of the above, GRECO concludes that recommendation xii remains partly implemented.

## **Recommendation xiii**

67. *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*

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<sup>4</sup> See the document "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", adopted by the HJPC in September 2019 and transmitted to all courts, prosecutor's offices, Centres for Judicial and Prosecutorial Trainings, the Office of the Disciplinary Prosecutor and all relevant departments of the HJPC.

*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.*

68. GRECO recalls that this recommendation was not implemented in previous reports. In the *Interim Compliance Report*, GRECO noted that the previous Rulebook containing instructions on submitting financial statements and the role of the HJPC to monitor such statements was no longer in force, and that no new measures had been taken to introduce new regulations in this respect. GRECO also noted that some financial declarations had been made public following consent by the judicial office-holders. While this voluntary disclosure was a step in the right direction, a mandatory disclosure had not yet materialised.
69. The authorities again refer to the judgment of 13 January 2020 of the Court of Bosnia and Herzegovina which confirmed the position of the Agency for Personal Data Protection that there is no legal ground for the HJPC to process personal data / the financial statements of judges and prosecutors, as prescribed by the Rulebook of 26 September 2019 on the submission, verification and processing of the financial statements of judges and prosecutors.
70. The authorities also report that, in June 2022, the HJPC sent urgent requests to the Ministry of Justice and the Parliamentary Assembly of Bosnia and Herzegovina to re-initiate the legislative process with respect to the review of financial statements of judges and prosecutors. On 29 August 2022, the Ministry of Justice provided the HJPC with the draft Law on Amendments to the Law on the HJPC, which was considered and elaborated by the HJPC on its session held on 28 September 2022 (see above, recommendation viii).
71. In relation to part (ii) of the recommendation, the authorities state that in 2021, out of a total of 1,445 judicial office-holders under an obligation to submit financial declarations, 211 consented to publication of their declarations, which were published on the HJPC website.
72. GRECO notes that an increasing number of judicial office-holders consent to the publication of their financial statements, but no other developments have taken place in the period covered by this report. In particular, the draft Law on Amendments to the Law on the HJPC, which is to regulate the submission and verification of financial statements of judicial office-holders, is still pending.
73. GRECO concludes that recommendation xiii remains not implemented.

#### **Recommendation xiv**

74. *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.*
75. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report, following the adoption of a Manual on Disciplinary Procedures and further efforts to raise awareness of disciplinary proceedings among relevant officials. In the *Interim* Compliance Report, GRECO noted that no further measures had been taken to increase the independence and transparency of the Office of the Disciplinary Counsel (ODP). GRECO recalled that addressing the first part of the recommendation remained contingent of the adoption of draft amendments to the Law on HJPC (recommendation viii). As to the second part of the recommendation, the information provided indicated a slight decrease in respect of pending disciplinary cases, but disciplinary procedures could still take well over a year and no revision of sanctions had taken place.
76. The authorities now report that a total of 58 disciplinary proceedings were concluded by the HJPC disciplinary panels between the 1<sup>st</sup> of July 2021 and the 1<sup>st</sup> of November 2022, with 14 proceedings concluded in 2021, and 44 in 2022. Out of the 58 proceedings, six proceedings were concluded under an agreement and the following measures were imposed: six written warnings, four public warnings, 18 reductions of salary, two reductions of salary with a special measure and four transfers from the position of chief prosecutor or deputy chief prosecutor to the position of prosecutor. Seven claims were rejected, and 12 proceedings suspended. Finally, three requests for temporary removal were rejected and two such requests suspended.
77. As for the transparency of the Office of the Disciplinary Counsel's activity, the authorities indicate that the annual reports of this Office are available on the HJPC website. The media and other interested parties can thus obtain information about the Office's work, while keeping in mind the legal constraints relating to the confidentiality of the investigation, the collected documents, and the actions taken in the investigation.
78. The authorities also refer to training activities<sup>5</sup> for members of disciplinary commissions which were convened in 2021/2022, in order to raise awareness of the disciplinary procedure among judicial office-holders.
79. GRECO regrets that no developments have been reported concerning measures to increase the independence and capacity of the Office of the Disciplinary Counsel, as requested by the first part of the recommendation. As regards part (ii) of the recommendation, GRECO notes an increase in the number of disciplinary proceedings concluded in the recent period. Misconduct of judges and prosecutors appears to be subjected to a wide range of sanctions. However, in the absence of concrete examples of misconduct, GRECO is not in a position to assess whether misconduct is effectively subject to proportionate and dissuasive sanctions. Therefore, GRECO considers that a big bulk of the recommendation is still not addressed.
80. GRECO concludes that recommendation xiv remains partly implemented.

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<sup>5</sup> Training on "Disciplinary procedure and practice of the HJPC of Bosnia and Herzegovina, with reference to challenges in implementation of the Code of Judicial Ethics and the Code of Prosecutorial Ethics", held on 13, 14 and 20 September 2021, and Training on "Disciplinary procedure and practice" held in Sarajevo on 20-21 September 2022. These trainings were attended by a total of 90 participants (members of the HJPC, judges and prosecutors, members of disciplinary commissions, representatives of the Office of the Disciplinary Counsel, as well as other representatives of the HJPC providing support to disciplinary commissions).

## Recommendation xv

81. *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.*
82. GRECO recalls that this recommendation was partly implemented in the *Interim Compliance Report*. A draft Communication Strategy was in the process of consultation with several stakeholders. 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, was also seen as encouraging by GRECO.
83. The authorities now report that, in December 2021, the HJPC adopted its 2022-2025 Communication Strategy for the entire judiciary.<sup>6</sup> This Communication Strategy aims at providing a strategic framework and guidance for enhancing transparency of the judicial and prosecutorial system in Bosnia and Herzegovina, in addition to setting the goals, messages and principles of communication as well as identifying the target groups and communication channels of the HJPC. On the basis of the Model Strategy for Crisis Communication in Courts and Prosecutors' Offices, adopted as Annex II of the Communication Strategy, a Guidance for Crisis Communication in Courts as well as a Guidance for Crisis Communication in Prosecutors' Offices were also adopted and transmitted to court presidents and chief prosecutors.<sup>7</sup> Furthermore, in April 2022, an Action Plan for the implementation of the Communication Strategy of the HJPC was adopted and in September 2022, the Strategy was supplemented by a Communication Plan in the area of ethics, integrity and prevention of conflict of interests.
84. The authorities indicate that the Communication Strategy, its Action Plan, and related documents were presented at a conference for chief prosecutors and court presidents on 7-8 June 2022 as well as to journalists during a roundtable held on 24-25 May 2022. Further to this roundtable, two training sessions for representatives of the media and the judiciary were organised by the HJPC in November 2022, in cooperation with the OSCE Mission to Bosnia and Herzegovina and the Association of Journalists of Bosnia and Herzegovina. The authorities stress that these trainings have once again confirmed that a continuous dialogue between the media and the judiciary is necessary to improve public trust, achieve a better understanding of the specificities of the work of both professions, and increase transparency in the work of judicial institutions.
85. Finally, the authorities refer to various activities aimed at increasing the understanding of the process of preparing and implementing integrity plans and other measures adopted to improve integrity in judicial institutions.
86. GRECO welcomes the adoption of the communication strategy and action plan by the HJPC. The strategy has been made publicly available and contains general guidelines for communication with civil society organisations and the media. GRECO also notes with satisfaction that a specific communication plan in the area of ethics, integrity and prevention of conflict of interests has been adopted. Moreover, training sessions gathering journalists, judges and prosecutors represent a positive development for the implementation of the new policy. GRECO therefore considers that the strategy overall meets the objective of the recommendation.

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<sup>6</sup> The Strategy and its annexes are available on the website of the HJPC: [Komunikacijska strategija VSTV-a BiH \(pravosudje.ba\)](https://www.hjpc.ba/komunikacijska-strategija-vstv-a-bih-pravosudje.ba).

<sup>7</sup> In June 2022, a training on crisis communication was organised for certain PRs and officers who perform such tasks in judicial institutions.

87. GRECO concludes that recommendation xv has been dealt with in a satisfactory manner.

### **III. CONCLUSIONS**

88. **In view of the foregoing, GRECO concludes that only limited progress has been made by Bosnia and Herzegovina. Only one of the fifteen recommendations contained in the Fourth Round Evaluation Report has been dealt with in a satisfactory manner.** Eight recommendations have been partly implemented and six have not been implemented.
89. More specifically, recommendation xv has been dealt with in a satisfactory manner, recommendations i, ii, iv, vii, ix, xi, xii and xiv have been partly implemented and recommendations iii, v, vi, viii, x and xiii have not been implemented.
90. With respect to members of parliament, no tangible progress has been made to implement GRECO's recommendations since the adoption of the *Interim* Compliance Report. GRECO regrets that the draft Law on Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, which is to address some aspects of these recommendations, has failed to be adopted so far and has yet to be tabled in the current legislature. The adoption of a comprehensive law on Prevention of Conflict of Interests at the level of the Brčko District represents a positive step, but is limited to one of the entities. No new information was provided as regards the introduction of rules for parliamentarians to regulate their interaction with third parties, the enforcement of the Code of Conduct for parliamentarians and the verification of asset declarations by members of parliament. The authorities are urged to take action on all these important issues.
91. Regarding judges and prosecutors, GRECO notes that there have been some positive developments, such as regular training activities on ethics and integrity and the adoption of new criteria for the performance evaluation of judges and prosecutors. The development of a combined system of confidential counselling for judges and prosecutors is however not advisable, considering judicial independence and the different tasks of judges and prosecutors. The draft Law on Amendments to the Law on the High Judicial and Prosecutorial Council, which has been long awaited, was rejected by the House of Peoples in May 2022. GRECO is of the view that the adoption of a new draft Law should now be a priority. Finally, a communication strategy for the judiciary has been adopted.
92. In view of insufficient progress overall in implementing GRECO's recommendations since the *Interim* Compliance Report, GRECO concludes that the very low level of compliance with the recommendations remains "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure.
93. In application of paragraph 2 (i) of Rule 32 of the Rules of Procedure, GRECO asks the Head of delegation of Bosnia and Herzegovina to provide a report on measures taken to implement the outstanding recommendations (i-xiv) by 31 March 2024 at the latest.
94. In addition, in accordance with Rule 32, paragraph 2, sub-paragraph (ii.b), GRECO invites the President of the Statutory Committee to send a letter to the Permanent Representative of Bosnia and Herzegovina to the Council of Europe, drawing his attention to non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.

95. 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.