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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

CZECH REPUBLIC

Adopted by GRECO at its 93rd 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 the Czech Republic to implement the recommendations issued in the Fourth Round Evaluation Report on Czech Republic (see paragraph 2).
2. The [Fourth Evaluation Round Report on the Czech Republic](#) was adopted by GRECO at its 72nd Plenary Meeting (1 July 2016) and made public on 2 November 2016, following authorisation by the Czech Republic. GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
3. The [Fourth Round Compliance Report](#) the Compliance Report was adopted by GRECO at its 80th plenary meeting (22 June 2018) and made public on 28 February 2019, following the authorisation by the Czech authorities.
4. The [Interim Compliance Report](#) was adopted at the 84th Plenary meeting (6 December 2019) and made public on 5 March 2020, following authorisation by the Czech authorities.
5. The Second Interim Compliance Report was adopted by GRECO at the 88th Plenary meeting (22 September 2021). As required by GRECO's Rules of Procedure, the Czech authorities submitted a Situation Report on further measures taken to implement the pending recommendations. This report, received by GRECO on 16 October 2022, served as the basis for the present Second Compliance Report.
6. [This Second Compliance Report](#) evaluates the progress made in implementing the pending recommendations since the adoption of the Second Interim Compliance Report and provides an overall appraisal of the level of compliance with these recommendations.
7. GRECO selected Turkey (with respect to parliamentary assemblies) and the Slovak Republic (with respect to judicial institutions) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Mehmet Soner ÖZOĞLU, on behalf of Turkey and Ms Zuzana ŠTOFOVÁ on behalf of the Slovak Republic. They were assisted by GRECO's Secretariat in drawing up this report.

II. ANALYSIS

8. It is recalled that GRECO addressed fourteen recommendations to the Czech Republic in its Evaluation Report. In the most recent report, the Second Interim Compliance Report, two of the fourteen recommendations had been implemented satisfactorily, nine recommendations had been partly implemented and three recommendations remained not implemented. Compliance with the twelve outstanding recommendations is dealt with below.

Corruption prevention in respect of members of parliament

Recommendation i

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

10. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report, as a pertinent draft law on lobbying had been submitted to Parliament, but it had not been adopted. Regarding the first part of the recommendation, there was no tangible progress made.
11. As regards the first part of the recommendation, the Czech authorities do not report any new information. As regards the second part, they explain that the draft law on lobbying which had been referred to in the previous reports (Chamber of Deputies, document 565) had reached the stage of a third reading in Parliament. Before the approval of the draft could take place, however, the reading had been suspended and parliamentary elections took place in October 2021. Therefore, the draft has to be submitted again by the new Government. In November 2022, the Ministry of Justice submitted the new draft law to the inter-ministerial commentary procedure. The draft is planned to be presented to the Government in March 2023.
12. GRECO notes that the situation as regards the first part of the recommendation remains unchanged since the last report. Concerning the second part of the recommendation, GRECO regrets that the draft law on lobbying is no longer in the parliamentary process. A new draft law is currently being prepared by the Ministry of Justice but it has yet to be presented to the Government. In this situation GRECO can no longer consider this part as partly implemented.
13. GRECO concludes that recommendation i has not been implemented.

Recommendation ii

14. *GRECO recommended (i) that a code of conduct be adopted for members of parliament, made easily accessible to the public, and accompanied by explanatory notes and/or practical guidance, including on conflicts of interest and related matters (e.g. gifts and other advantages, incompatibilities, additional activities and financial interests, post-employment situations, contacts with third parties such as lobbyists, declaration requirements, etc.); (ii) that the code of conduct be complemented by practical measures for their implementation, such as dedicated training, confidential counselling and awareness-raising.*
15. GRECO recalls that this recommendation was not implemented in the Second Interim Compliance Report. It expressed serious concern that the Senate had “rejected” the elaboration of a Code of Ethics applicable to senators. In addition, a very limited applicability of the draft Code of Conduct for deputies, as well as shortages in its content, fell short of the requirements of the recommendation.
16. The Czech authorities now report that the proposal for the draft Code of Conduct referred to in previous reports has been withdrawn. The new Speaker of the Chamber has been discussing the topic with representatives of anti-corruption organisations and plans to organise a round table with the participation of experts and MPs. On the basis of collected initiatives and documents, including the draft submitted by the Ministry of Justice to the former Speaker, she will proceed with the preparation of a new draft code of conduct, for which she will subsequently seek support across the Chamber of Deputies. However, the Senate reiterated in December 2022 its opposition to this initiative, stating that it considered the provisions of the Constitution of the Czech Republic and the rules of procedure of both chambers to be fully sufficient¹. This Resolution was adopted during a debate on the 2022 European

¹ Resolution no. 49 of 1 December 2022.

Union Rule of Law Report, which addressed a recommendation to the Czech Republic to ensure that Codes of Ethics are in place for both Houses of Parliament².

17. GRECO takes note of the reported plan of the Speaker of the Chamber of Deputies to prepare a new code of conduct, as well as of the opposition of the Senate to such a code. It recalls that it has repeatedly expressed support in its reports in favour of parliaments having their own set of common standards and guidelines on conduct. These are not intended to replace existing constitutional rules, legislation or other forms of regulations but rather to complement them, develop them further and offer guidance in a more flexible and evolutive way. It urges the authorities to pursue the implementation of this recommendation regarding both Chambers of Parliament.
18. GRECO concludes that recommendation ii remains not implemented.

Recommendation iii

19. *GRECO recommended that enforceable rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public; they should, in particular, determine what kinds of gifts and other advantages may be acceptable and define what conduct is expected of members of parliament who are given or offered such advantages.*
20. GRECO recalls that this recommendation was not implemented in the Second Interim Compliance Report, as no relevant rules on gifts and other advantages had been adopted in respect of MPs.
21. The authorities do not report any new information in this respect.
22. GRECO concludes that recommendation iii remains not implemented.

Recommendation iv

23. *GRECO recommended (i) requiring members of parliament to also submit declarations of activities, declarations of assets and declarations of income, gifts and liabilities at the beginning of their mandate, introducing an electronic declaration system and making declarations more easily accessible on the internet; (ii) making it clear that declarations must also include in-kind benefits provided to members of parliament; and (iii) considering widening the scope of the declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public).*
24. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report. The first two parts had been complied with. The third part remained not implemented, the management of the Ministry of Justice had decided that the scope of declarations would not be widened to cover information regarding spouses and dependent family members. The process leading to this decision did not fulfil the criteria of a proper consideration in line with GRECO's standards.
25. The authorities now report that in June 2022, an amendment (no. 180/2022 Coll.) to the Act on Conflicts of Interest proposed by a group of Deputies was approved by both chambers of Parliament, signed by the President of the Republic and has been

² https://commission.europa.eu/publications/2022-rule-law-report-communication-and-country-chapters_en

in force since 1 July 2022. The amendment follows on the Constitutional Court judgment Pl. ÚS 38/17 of February 2020, which ruled that disclosing property held jointly by a public office holder and his/her spouse upon request would be in conformity with the Constitution and essential for the objectives of the Act on Conflicts of Interest. Following the practical restriction of access modalities to the Register of declarations decided by the Ministry of Justice in January 2021, the amendment of the Act on Conflicts of Interest aligned the practical arrangements and the Constitutional Court's decision. The information in declarations of all public officials is now accessible upon a request made in writing sent through postal services with an officially certified signature, electronically with a guaranteed electronic signature of the applicant or electronically via the applicant's data box (secured system of communication with state authorities and companies).

26. GRECO notes that the information provided shows a worrying trend towards a narrowing of the scope of and the access modalities to the declarations. As highlighted by GRECO in its previous report, this does not appear conducive to an environment focused on fighting corruption. The amendment to the Act of Conflicts of Interest introducing additional conditions for accessing the declarations actually runs counter to one of the objectives of the first part of the recommendation, which can therefore no longer be regarded as fully complied with. As regards the third part of the recommendation, there is no new information reported.
27. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v

28. *GRECO recommended significantly strengthening the supervision and enforcement of the various declaration requirements on members of parliament under the Act on Conflicts of Interest, notably by giving an independent monitoring mechanism the clear mandate, powers and adequate resources to verify in depth the declarations submitted, to investigate irregularities and to initiate proceedings and impose effective, proportionate and dissuasive sanctions if the rules are violated.*
29. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report, in the light of considerable improvement in the practice of the supervisory system of declarations of MPs. However, more effective, proportionate and dissuasive sanctions had not been introduced at the time.
30. The Czech authorities report no new developments as regards this recommendation.
31. GRECO concludes that recommendation v remains partly implemented.

Corruption prevention in respect of judges

Recommendation vi

32. *GRECO recommended (i) regulating in more detail the recruitment and promotion of judges and court presidents so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; and (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*
33. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report. The first part was assessed positively in the Second Interim Compliance Report as amendments to the Act on Courts and Judges had been adopted (however, these had not entered into force at the time). New provisions on

the recruitment and promotion of judges in courts of different levels had been introduced. Rules had also been adopted previously on appointments to the Supreme Court and the Supreme Administrative Court. However, the new provisions regarding judicial recruitments did not provide for reasoning and judicial appeal. The second part of the recommendation remained therefore not implemented.

34. The authorities now refer to the above-mentioned amendments to the Act on Courts and Judges, which entered into force on 1 January 2022. These amendments introduce a new system of selection of judges and presidents of district, regional and high courts. The selection system of new judges consists of five phases: 1. practice as an assistant of a judge; 2. judicial exam; 3. selection procedure of a judicial candidate; 4. practice of a judicial candidate; and 5. open competition for the position of a judge. Selection committees in phases 3. and 5. consist of judges and judicial experts, with a majority of judges. Applicants from other legal professions (such as lawyers, notaries, bailiffs or public prosecutors) are also allowed to apply for judge and candidate-judge positions.
35. The authorities add that court presidents are selected in open competitions before selection committees in which the majority of the members are judges. Applicants are required to be judges with at least 5 years of practice. The court presidents of the lower courts can only be given one mandate at the same court. Presidents of high and regional courts may have several mandates at different courts of the same level after 5 years from the end of the first mandate. Court presidents are required to fulfil a management education course organised by the Judicial Academy.
36. Decree no. 516/2021 Coll. of the Ministry of Justice, which establishes the specificities of the selection procedure, provides that each member of the selection committees must evaluate each candidate and must justify the score given in writing (section 34). A protocol of the meeting of each selection committee is drawn up, which records in detail the selection procedure and its outcome, as well as the number of points allocated to each candidate by each committee, together with their justification. The protocol also contains a list of other documents about the applicants that were considered by the committees, as well as any comments by the applicants on these documents. This data is kept for 70 years. Similar provisions apply to the selection of court presidents.
37. The Act on Courts does not mention specifically that the decisions on selection are subject to judicial review, but this is the case in practice, as one case objecting to the written part of a selection exam which took place in November 2022 is currently pending on merits before the Municipal Court in Prague.
38. GRECO welcomes the entry into force of the amendments to the Act on Courts and Judges, which it had assessed positively in its previous report. The first part of the recommendation can now be assessed as fully complied with. As regards the second part, it welcomes that the selection procedure for judges and court presidents provides for written justification by each selection committee member of the grade given to each candidate. Judicial appeal of such decisions is also possible, as such a case is currently pending before a court. The second part of the recommendation is therefore also complied with.
39. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii

40. *GRECO recommended (i) that a code of professional conduct for all judges – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues (e.g. on gifts, secondary activities,*

third party contacts/confidentiality, etc.) – be developed, communicated effectively to all judges and made easily accessible to the public; (ii) that it be complemented by practical measures for its implementation, including confidential counselling and dedicated training for both professional and lay judges.

41. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report. It welcomed the new Code of Ethics and the development of Judicial Ethics Training Tools. However, the new Code had not been made applicable to all judges as not all judicial councils had approved it. GRECO had also taken issue with the non-binding nature of the Code and with the absence of a supervisory and enforcement mechanism. Furthermore, the provisions of the Code did not include rules regarding certain areas (e.g. secondary activities, contacts with third parties) and GRECO had not been provided with the practical guide which was said to be part of the Code. The first element of the recommendation was thus only partly implemented. As regards the second element, GRECO noted that no judicial training had been provided on the new Code and its application in practice and that the role of confidential counselling appeared to be left to the Ethical Court of the Union of Judges, which was criticised for a poor advisory role, in the Evaluation Report. This element therefore remained not implemented.
42. The Czech authorities indicate that there is no new information in respect of this recommendation.
43. GRECO concludes that recommendation vii remains partly implemented.

Recommendation ix

44. *GRECO recommended introducing the possibility for judges to challenge disciplinary decisions including for dismissal before a court.*
45. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report, as amendments aimed at enabling judges to appeal against disciplinary decisions before a court were pending before Parliament.
46. The Czech authorities now explain that the previously mentioned draft amendments were pending in second reading when the Chamber of Deputies was dissolved following elections in October 2021. The process now has to be started anew and the draft should be presented to the Government.
47. GRECO takes note of the information provided. As the process leading to the adoption of amendments has to be started anew at the level of the Government, it can no longer consider this recommendation as partly implemented. GRECO encourages the authorities to proceed with this matter in a swift manner.
48. GRECO concludes that recommendation ix has not been implemented.

Corruption prevention in respect of prosecutors

Recommendation x

49. *GRECO recommended (i) regulating in more detail the recruitment and promotion of public prosecutors so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*

50. It is recalled that this recommendation was partly implemented. In the Interim Compliance Report, GRECO welcomed the entry into force of an Agreement on the Selection and Career Progress of Public Prosecutors between the Ministry of Justice and different prosecutors' offices. However, it regretted that a possibility to appeal against recruitment/promotion decisions before court had not been dealt with. GRECO also stressed that the new rules should preferably be legislated. No further developments were noted in the Second Interim Compliance Report, notably as regards draft amendments to the Act on the Public Prosecutor's Office.
51. The authorities now indicate that, in the absence of a specific procedure for the selection of public prosecutors prescribed in the Act of the Public Prosecutor's Office, this matter is still governed in practice by the above-mentioned Agreement. The legislative process for the draft reform of the Public Prosecutor's Office Act presented by the Ministry of Justice in June 2019 had not been completed.
52. On 25 October 2022, draft amendments to the Act on the Public Prosecutor's Office were submitted to an inter-ministerial consultation procedure. According to the authorities, these amendments introduce clearer rules for the appointment and dismissal of chief prosecutors and the duration of their term of office. The legal regulation of the procedure for the appointment and dismissal of chief prosecutors should eliminate the risk of impermissible political influence or pressure on the activities and functioning of the prosecution service. Accordingly, district, regional and high chief prosecutors could only be removed in disciplinary proceedings. The draft will also include specific reasons to remove the Prosecutor General.
53. GRECO takes note of the Government's plan to amend the Public Prosecutor's Office Act and looks forward to assessing the content, when available.
54. GRECO concludes that recommendation x remains partly implemented.

Recommendation xi

55. *GRECO recommended reforming the procedures for the appointment and recall of the Supreme Public Prosecutor and other chief public prosecutors, in particular by ensuring (i) that any decisions in those procedures are reasoned, based on clear and objective criteria and can be appealed to a court; (ii) that appointment decisions are based on mandatory, transparent selection procedures and; (iii) that recall is possible only in the context of disciplinary proceedings.*
56. GRECO recalls that this recommendation was not implemented in the Second Interim Compliance Report. A draft Act on the Public Prosecutor's Office was in preparation at the time to also address the concerns underlying this recommendation, but it was at an early stage of preparation. An Agreement between the Ministry of Justice and prosecutors' offices had not addressed the rules on prosecutors' removal from office and had not introduced a possibility to appeal recruitment/promotion decisions before a court. In the latest Compliance Report, GRECO called upon the Czech authorities to proceed with the adoption of new legislation, in light of the replacement in July 2021 of the Prosecutor General in a procedure which lacked the required degree of transparency.
57. The authorities refer again to the Agreement between the Ministry of Justice and prosecutors' offices and to the above-mentioned new Government's plan to introduce amendments to the Public Prosecutor's Office Act (see paragraph 52).
58. GRECO takes note of the information provided. It recalls that it already stated in its previous reports that the Agreement between the Ministry of Justice and prosecutors' offices did not meet the concerns of the recommendation. It welcomes the plan of

the new Government to prepare anew amendments to the Public Prosecutor's Office Act, but it is too early in this process to conclude that the recommendation has been implemented, even partly. GRECO again calls upon the Czech authorities to proceed with this reform with determination.

59. GRECO concludes that recommendation xi remains not implemented.

Recommendation xiii

60. *GRECO recommended regulating more closely the exercise by public prosecutors of secondary activities, including by introducing a reporting requirement and, as appropriate, monitoring compliance with the existing restrictions on the exercise of such activities.*
61. It is recalled that this recommendation was partly implemented in the Second Interim Compliance Report, since the adoption of amendments to the Act on Conflicts of Interest, which introduced mandatory annual declarations, including in respect of secondary activities. More detailed reporting rules had not been adopted and no provision on reporting secondary activities had been included in the newly adopted Code of Ethics.
62. The Czech authorities do not report any new information as regards this recommendation. They reiterate that a more detailed regulation of the exercise by prosecutors of secondary activities is part of the above-mentioned amendment to the Public Prosecutor's Office Act which is awaiting discussion by the Government.
63. GRECO concludes that recommendation xiii remains partly implemented.

Recommendation xiv

64. *GRECO recommended introducing the possibility for public prosecutors to challenge disciplinary decisions including dismissal before a court.*
65. GRECO recalls that this recommendation was partly implemented in the Second Interim Compliance Report. GRECO noted that draft amendments to enable prosecutors to appeal against disciplinary decisions before a court were being examined in Parliament, which represented a modest step towards new legislation in this respect.
66. The Czech authorities now report that the above-mentioned draft amendments were not adopted, as they were only in a second reading before Parliament when the Chamber of Deputies was dissolved following elections in October 2021. The process therefore has to be started again and draft amendments need to be presented by the Government.
67. GRECO notes that the draft amendments, on the basis of which this recommendation was assessed as partly implemented in its previous report, were not adopted and that the legislative process has to be restarted under the current Government. Under these circumstances, the recommendation is no longer even partly implemented.
68. GRECO concludes that recommendation xiv has not been implemented.

III. CONCLUSIONS

69. **In view of the foregoing, GRECO concludes that the Czech Republic has implemented satisfactorily or dealt with in a satisfactory manner only three**

of the fourteen recommendations contained in the Fourth Round Evaluation Report. Five recommendations have been partly implemented and six recommendations have not been implemented.

70. More specifically, recommendations vi, viii and xii have been implemented satisfactorily, recommendations iv, v, vii, x and xiii have been partly implemented and recommendations i, ii, iii, ix, xi and xiv have not been implemented.
71. With respect to members of parliament, no progress has been made. The new Speaker of the Chamber of Deputies has stated her intention to prepare a new code of conduct for the Deputies but this has not materialised yet. No tangible measures have been taken as regards the transparency of the legislative process, there are still no relevant rules on gifts and other advantages for members of parliament, and proportionate, effective and dissuasive sanctions are still not in place for violation of the provisions of the declaration requirements. GRECO also noted a worrying trend towards narrowing the scope of and the access to declarations.
72. As to judges, GRECO welcomed the entry into force of amendments to the Act on Courts and Judges, which reinforce the transparency and objectivity of the recruitment and promotion of judges and court presidents. There has been no progress in making the Code of Ethics applicable to all judges and in developing complementary counselling and training. The parliamentary elections of October 2021 led to the non-completion of the process leading to the adoption of legislative amendments introducing the possibility for judges to challenge disciplinary decisions before a court and this process has to be re-started.
73. As regards prosecutors, the implementation of all recommendations depends on amendments to the Public Prosecutor's Office Act, which were pending before Parliament when the 2021 elections took place. As is the case with legislative amendments regarding judges, the process now has to be started again.
74. It follows that, overall, the level of implementation of GRECO's recommendations is very low and disappointing. In fact, the findings in this report show a lower level of compliance than in the previous report. GRECO urges the authorities to take determined measures to considerably improve the situation.
75. In view of the above, GRECO concludes that the current low level of compliance with the recommendations is again "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 mutual evaluation report and asks the Head of Delegation of the Czech Republic to provide a report on the progress in implementing recommendations i to v, vii, ix to xi, xiii and xiv as soon as possible, however – at the latest – by 31 March 2024.
76. In accordance with Rule 32, paragraph 2 subparagraph (ii b), GRECO invites the President of the Statutory Committee to send a letter to the Permanent Representative of the Czech Republic to the Council of Europe, drawing his attention to non-compliance with the relevant recommendations.
77. Finally, GRECO invites the authorities of the Czech Republic to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.