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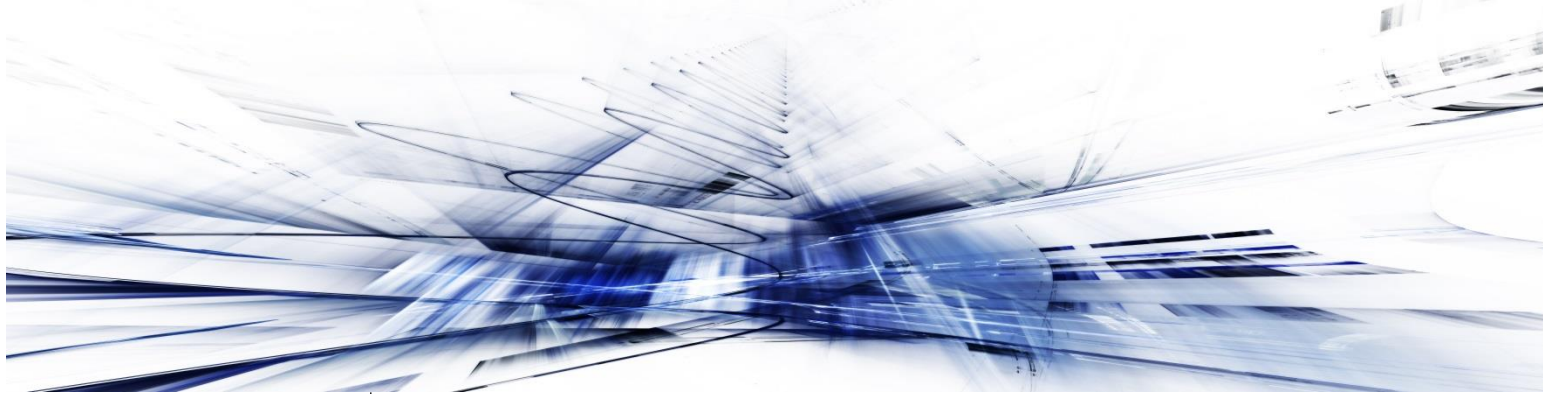
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FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

EVALUATION REPORT

SLOVAK REPUBLIC



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



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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in the Slovak Republic to prevent corruption amongst persons with top executive functions (ministers, senior government officials and political advisers) and members of the Police Force. It aims at supporting the on-going reflection and action, notably following the murder of investigative journalist Ján Kuciak, aimed at strengthening transparency, integrity and accountability in public life. For this purpose, the report shines a light on a number of areas where corruption prevention should be improved to render it both more comprehensive and effective.

2. A Corruption Prevention Department was created in 2017, within the Government Office, to conceive and co-ordinate state anti-corruption efforts. An Anti-Corruption Policy prepared by this department was recently adopted by the government to provide a framework for future sectorial measures, including at government and police levels.

3. Insofar as persons with top executive functions are concerned, an operational action plan to address risks specific to government work, based on risk assessments, should be adopted following the Anti-Corruption Policy. Moreover, in the absence of a code of conduct that would provide guidance on obligations applying in particular to ministers, state secretaries and advisers, there is globally a lack of clarity as to which integrity rules apply to whom. When it comes specifically to state secretaries and advisers, formal integrity checks should take place as part of their recruitment. More generally, a number of crucial issues would require more transparency as way to better prevent corruption, both real and perceived. One such issues is contacts between persons with governmental functions and lobbyists/third parties seeking to influence public decision-making which needs to be regulated; for example, information should be provided as to who is met and the subject-matters discussed. Moreover, more stringent rules on reporting gifts received by persons working in government should be laid down. As to declarations of interests of ministers and state secretaries, the threshold of assets needed to be declared should be lowered, more information should be made public and ad hoc declarations should be filed wherever risks of conflicts of interest arise between annual declarations.

4. Concerning the Police Force, there is an immediate need for an operational plan to combat corruption within the police, relying on a coherent risk management mechanism identifying risk areas and emerging trends. Whilst it is positive that a Code of Conduct already exists, it would need to be revised and supplemented by an explanatory manual so as to become a truly practical tool, acting as the reference point for training, rather than a list of principles, as is currently the case, and to cover all integrity matters. New rules to increase transparency of the appointment of the Police Chief have been laid down, but it would be beneficial to keep them under review. Further, security checks would require to be strengthened, to ensure that it takes place at regularly intervals depending on the level of exposure to corruption risks. Moreover, rules should be adopted to limit risks of conflicts of interest when officers leave the police to work in other sectors. The control system of declarations of interest ought to be strengthened by ensuring effective control outside the chain of command. Further should be done to guarantee that police misconduct is appropriately investigated with a sufficient level of transparency. Finally, steps should be taken so that the protection of whistleblowers is fully effective in practice.

II. INTRODUCTION AND METHODOLOGY

5. The Slovak Republic joined GRECO in 1999 and has been evaluated in the framework of GRECO's First (in September 2000), Second (in September 2002), Third (in March 2008) and Fourth (in April 2013) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.¹

6. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of the Slovak Republic to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of the Slovak Republic, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, the Slovak Republic shall report back on the action taken in response to GRECO's recommendations.

7. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the Slovak Republic from 12 to 16 November 2018, and reference was made to the responses by the Slovak Republic to the Evaluation Questionnaire, as well as other information received, including from civil society. The GET was composed of Mr Antonios BALTAS, Independent lawyer by *Areios Pagos* (Supreme Court of Greece), Special Advisor in the General Secretariat against Corruption, Ministry of Justice (Greece), Ms Maria Lodovica DE CARO, Vice Prefect, Ministry of Home Affairs, Department for Human Resources Policies, Unit for Corruption Prevention and Transparency (Italy), Mr Flemming DENKER, Former Deputy State Prosecutor at the State Prosecutor for Serious Economic and International Crime (Denmark) and Ms Helena KLIMA LIŠUCHOVÁ, Director, International Cooperation and EU Department, Ministry of Justice (Czech Republic). The GET was supported by Mr Gerald DUNN of the GRECO Secretariat.

8. The GET interviewed representatives of the Presidential Office, the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance, the Government Office, including the Corruption Prevention Department and the Civil Service and Public Service Division, the Civil Service Council, the National Audit Office, the Police Force, including the Border and Foreigner Police, the National Crime Agency (NAKA), the Criminal Office of Financial Administration, the Police Academy, the Special Prosecutor's Office, the Parliamentary Committee for Incompatibilities of Functions, the Public Defender of Rights, the Slovak National Centre for Human Rights, police trade unions, journalists, academics and NGOs.

¹ More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

III. CONTEXT

9. The Slovak Republic has been a member of GRECO since 1999 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption. At the closure of the compliance procedures, all recommendations of the first evaluation round, 75% of recommendations of the second evaluation round, and 80% of recommendations of the third round had been fully implemented. The compliance procedure in respect of the fourth evaluation round covering members of parliament, judges and prosecutors is still ongoing, and in the latest compliance report, dated 22 March 2019, just under 45% of recommendations had been fully implemented (35% had been partly implemented and 20% had not been implemented). This is of relevance to the current evaluation round as some legislation applies across the board and also covers persons with top executive functions and law enforcement officials.

10. According to the corruption perceptions index published by Transparency International, the Slovak Republic was ranked 57th out of 180 in 2018, down from 54th in 2017 and 2016, and 50th in 2015. According to the Eurobarometer, in 2017, 85% of Slovaks thought corruption was widespread, against a European Union average at 68%.

11. The last year-and-a-half has been marked by the murder of investigative journalist Ján Kuciak and his partner, Martina Kušnírová, on 21 February 2018. Ján Kuciak had been investigating connections between a large criminal network, certain business circles and politicians, in particular with regard to tax evasion and misuse of EU funds.² This murder has acted as a catalyst for large-scale demonstrations calling for a thorough independent investigation into Kuciak's murder and more generally voicing concerns at the perceived level of corruption of politicians, notably in government, and top police officials.³ As a result of pressure from continued demonstrations, the Minister of the Interior stepped down on 12 March 2018, the Prime Minister on 15 March 2018 and the Police Chief on 17 April 2018.

12. Insofar as the investigation into Kuciak's murder is concerned, four people were charged with his murder in September 2018, one of whom being a former policeman.⁴ On 8 March 2019, one of the country's most influential businessmen, already embroiled in several fraud and corruption cases,⁵ was charged with ordering Kuciak's murder.⁶ Investigations were ongoing at the time of the adoption of this report. Overall, this murder has raised a number of issues, including the possible proximity between some persons with governmental functions and corrupt businessmen or criminal networks, the lack of reporting of contacts between ministers and third parties, the perceived politicisation of police investigations, the possibility of leaks from the police of confidential information, and the insufficient integrity vetting of political advisers.

13. The aftermath of the murder of this investigative journalist has also led to much scrutiny abroad. In this context, the European Parliament adopted a resolution on 28 March

² <https://www.bbc.com/news/world-europe-43226567>

³ <https://spectator.sme.sk/c/20777059/enough-of-fico-thousands-of-people-shouted-at-gatherings-across-slovakia.html>

⁴ <https://spectator.sme.sk/c/20926821/the-murder-of-jan-kuciak-was-ordered-by-a-woman-the-price-for-his-head-was-70000.html>

⁵ <https://spectator.sme.sk/c/20940249/controversial-businessman-kocner-charged-in-five-star-residence-case.html>; <https://spectator.sme.sk/c/20856952/marian-kocner-and-pavol-rusko-released.html>

⁶ <https://spectator.sme.sk/c/22074905/kuciak-kusnirova-murder-kocner-charges.html?ref=av-right>

2019 on the situation of the rule of law and the fight against corruption in the EU, with a focus on two countries including Slovakia.⁷ Moreover, two other investigative journalists, who reported on organised crime and the energy sector, disappeared in 2008 and 2015; their whereabouts remain unknown to this day.⁸

14. There have been a number of other corruption cases and allegations concerning notably persons with top executive functions and police officials. A major case of corruption involving politicians, including government members and officials, is the so-called Gorilla case dating back to 2011. It concerns an alleged file of the Slovak Intelligence Service (SIS) leaked on the internet in 2011 about talks between various politicians, including in government, and the head of a large financial group on bribes and corruption. This case continues to make ripples today as prosecution is still ongoing.⁹ To date, this case has led to no convictions. In another instance, several rallies bringing together thousands of demonstrators in 2017 called for the resignation of the then Minister of the Interior owing to his business involvement with a real estate developer then suspected – now convicted¹⁰ – of tax fraud¹¹ and the perception that he may seek to influence the investigation and prosecution.

15. Slovakia has reportedly the highest irregularity and fraud detection rates of EU Member States regarding the use of EU funds.¹² By way of example, two former ministers were convicted in a final judgment for having wilfully disrespected rules on calls for tenders for the attribution of EU funds (see para. 146).¹³ In another case dating back to 2017, the then Minister of Education resigned owing to suspicions of bribery at the ministry in connection with the allocation of EU funds for research and development, owing to non-transparent procedures resulting in funds being attributed to companies with no records in the field of research or education. This led to the minister having to step down and the allocations of funds being nullified.

16. The large-scale cases described above involving politicians show some involvement of police officials, for instance through influence at the top level, connection to business circles or leaks of sensitive information. However, there are also reports of corruption in some instances directly linked to police officials.¹⁴

⁷ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0328_EN.html?redirect

⁸ <https://spectator.sme.sk/c/20782073/meps-call-for-investigation-into-the-disappearance-of-journalists.html>

⁹ <https://spectator.sme.sk/c/22002121/qa-the-gorilla-case.html>; <https://spectator.sme.sk/c/22025871/special-prosecutor-now-wants-the-original-gorilla-recording.html>

¹⁰ <https://spectator.sme.sk/c/22074757/ladislav-basternak-tax-fraud-verdict.html>

¹¹ <https://www.reuters.com/article/us-slovakia-politics-corruption/thousands-of-slovaks-protest-corruption-demand-ouster-of-pm-ficos-ally-idUSKBN17K27Z>

¹² See para. AS and footnote 26: http://www.europarl.europa.eu/doceo/document/TA-8-2019-0328_EN.html?redirect; https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf

¹³ <https://spectator.sme.sk/c/20962740/bulletin-board-ministers-go-to-prison.html>

¹⁴ For example: <https://spectator.sme.sk/c/20850118/policeman-from-anti-corruption-unit-arrested-for-corruption.html>

IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

System of government

17. The Slovak Republic is a parliamentary republic. The separation of powers is enshrined in the Constitution. The National Council of the Slovak Republic is the sole constitutional and legislative body of the Slovak Republic (Article 72, Constitution). The independence of the judiciary from other powers is guaranteed by the Constitution (Article 141).

President

18. The Head of State is the President (Article 101, Constitution). The President represents the country externally and internally, by his/her decisions, ensures regular operation of constitutional bodies. The President is elected by Slovak nationals in direct elections by secret ballot for a five-year mandate, renewable once. The President cannot hold any other office, such as being an MP, or perform any other paid functions, profession or entrepreneurial activity (Art. 103(4) and (5)). Any Slovak national who can be elected to the National Council and has reached the age of 40 may run for President (Art. 103(1)).

19. The President convenes the opening session of the National Council. S/he formally concludes and ratifies treaties, but in practice conclusion is delegated to the government, or, with the government's consent, to individual government members, as envisaged by the Constitution (Article 102). S/he signs laws adopted by the National Council. S/he can return to the National Council ordinary laws with comments, within 15 days after their approval. This procedure is seldom used and cannot concern constitutional laws¹⁵ and can be overridden by a two-third majority in the National Council. Moreover, if the President refuses to sign off a law adopted by the National Council, this does not prevent it from being promulgated (Constitution, Article 87(3)), hence demonstrating his/her purely formal role also in this respect. S/he can decide to hold a referendum if approved by a majority of 3/5th of the National Council or if at least 350 000 citizens petition for such a referendum.

20. The President may dissolve the National Council in a strictly limited number of cases specified in the Constitution, such as when the Government has failed within a period of six months from its nomination to pass its Government Programme before the National Council. S/he acts as commander in chief of the armed forces but can only order mobilisation of the armed forces upon decision of the government and declare war upon decision of the National Council. The President can grant amnesty or pardon taking into account the advice of the Minister of Justice.

21. The President appoints the heads of central bodies and higher-level state officials in cases specified by law and heads of diplomatic missions. S/he appoints university professors and rectors upon advice from academic institutions. With criteria fixed by law, s/he appoints judges of the Constitutional Court from a list of candidates proposed by the National Council. S/he also appoints three of the 18 members of the Judicial Council. Upon advice of the Judicial

¹⁵ On average, this would represent one or two laws by sessions of the National Council.

Council, s/he appoints the Chair and deputy Chair of the Judicial Council, from amongst judges of the Supreme Court, as well as ordinary judges. S/he also appoints the General Prosecutor on a proposal of the National Council.

22. As agreed by GRECO, a Head of State would be covered in the 5th evaluation round under “central governments (top executive functions)” when s/he actively participates on a regular basis in the development and/or the execution of governmental functions or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

23. The GET notes that the role of the President of the Slovak Republic is primarily of a ceremonial nature. S/he is not involved in the day-to-day exercise of governmental functions or in advising the government on such functions. As made clear by Article 108 of the Constitution, it is the government that is the supreme executive body of the country. Overall, while the President has some formal functions, these are either in practice delegated to the government or mostly being influenced by the government, the National Assembly or other bodies (e.g. concerning appointments). Similarly, the President may also express views on broad political matters, such as in an annual report to the National Council (Article 102 para. 1(p), Constitution), but this does not impact the way the government goes about the exercise of governmental functions. In view of the above, the President of the Slovak Republic, as the country’s Head of State, cannot be considered as exercising top executive functions within the meaning of this evaluation round and therefore does not fall within the framework of this report.

Government

24. The government, as already mentioned, is the supreme executive body of the country (Constitution, Article 108). It consists of the Prime Minister (PM), deputy prime ministers and ministers (Article 109(1)).

25. The government is accountable collectively to the National Council, which can pass a vote of no confidence or vote down a vote of confidence – either situation will bring the government down (Article 115). Government members are also individually accountable to parliament, which can pass a vote of no confidence concerning a specific minister – this will result in the minister being dismissed and, if the vote concerned the PM, in the government resigning (Article 116).

26. The structure and organisation of the government are regulated by Act No. 575/2001 Coll. on the Organisation of the Activity of the Government and on the Organisation of the Central State Administration, as amended (hereafter, Government and Central Administration Act). Under section 1, the government is headed by the PM who convenes and chairs government meetings. In the PM’s absence, s/he is represented by a Deputy Prime Minister appointed by him/her. The government’s different activities are co-ordinated by the Deputy Prime Minister, who also fulfils tasks assigned to him/her by the government or the PM.

27. Currently, the government has 15 members, including five women (Deputy Prime Minister and Minister for Agriculture and Rural Development, Minister of Education, Science, Research and Sport, Minister of Culture, Minister of Health and Minister of Interior). This composition is not far from being in line with the Committee of Ministers' [Recommendation Rec\(2003\)3 on balanced participation of women and men in political and public decision](#), according to which making balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%. The GET therefore encourages the authorities to sustain their efforts towards better gender balance in government in future.

28. Ministries are responsible for the proper regulation of matters falling within their portfolio. They prepare draft Acts and other generally binding legal regulations, publish them and submit them to the government after discussion in the commenting proceedings; they also ensure compliance with law within their remit (section 37).

29. Activities of ministries, through their ministers, are managed, co-ordinated and supervised by the government (section 39, paragraph 1). Under section 39 par. 2 the Government approves the following: (a) statutes of ministries, which will define their roles in more detail; (b) limits as to the number of employees of ministries; (c) foreign trips of the PM, deputy prime ministers, ministers, state secretaries, heads of other central state administrative bodies, and Head of the Government Office.

30. Under section 1a cabinet meetings are not public. This does not affect the government's obligation to publish texts of materials under a special regulation (Act No. 211/2000 Coll. on Free Access to Information, see paras 77-81).

31. Under section 1aa, the government generally makes decisions by means of government resolutions, which are not subject to judicial review. Ministries may, within the framework of existing Acts and within their limits, issue generally binding legal regulations, if authorised by law (Art. 123, Constitution). The decision-making process on specific issues within the remit of a specific ministry is governed by the organisational rules of each ministry. A complaint may be filed with administrative courts against decisions of a minister following administrative proceedings pursuant to the Administrative Procedure Code.

32. The areas where government decisions need to be collective are listed in Article 119 of the Constitution. It includes, *inter alia*, bills, government regulations, the draft state budget, international treaties, request for a vote of confidence, essential issues of internal policy (including on social and economic matters).

33. Each ministry has a Secretary General, appointed and revoked by the government upon a proposal of the competent minister, whose task is to manage the administrative services of the ministry, including for civil servants. Each ministry is also considered a service office, which is headed by the Secretary General. Structural units dealing with substantial issues would be directly under the minister or a state secretary. Government administration is essentially composed of civil servants. Tasks connected with the professional, organisational and technical provision of the government's activity are fulfilled by the Government Office. The Corruption Prevention Department, which centralises policies to prevent corruption, comes under the Government Office. The Head of the Government Office is appointed by the Government.

34. For each ministry, state secretaries can be appointed and recalled by the government upon a proposal of the competent minister. In justified cases, especially in the case of multi-sectored ministries, the government may determine that two state secretaries (exceptionally three) should be appointed to a ministry; the minister will determine the areas and situations in which they are to be represented by the state secretaries. While representing the minister during Cabinet meetings, state secretaries have a consultative vote.

35. During the visit, it came out that state secretaries were considered as a category of their own, as this post is neither assimilated to ministers nor typical civil servants. As such, integrity standards applying to them are spread across different statutes. The GET notes that state secretaries are expressly mentioned as a category to which the Conflict of Interest Act (applicable to officials such as ministers, see para. 58) would normally apply. However, technically, state secretaries are also called “civil servants in public functions” for the purpose of the Civil Service Act (see para. 58), which therefore applies to them as well. At the same time, not all provisions apply to them (e.g. duties, obligations, limitations or asset declarations) and the Conflict of Interest Act will take precedence for such areas. During the visit, it appeared to the GET that in practice the sui generis status of state secretaries results in some confusion as to what standards really apply to them. On a number of occasions, it was indicated to the GET that the rules applicable to ministers as per the Conflict of Interest Act, do not apply to state secretaries. The GET considers it should be unequivocal what standards apply to them and that the complexity of them being covered both by the Civil Service Act and the Conflict of Interest Act should be resolved including by proper guidance in the form of a code of conduct (see recommendation under para. 68).

36. Furthermore, state secretaries are appointed by the government to a particular ministry on the proposal of the minister in charge and play a significant executive role within the remit that they are given by this minister. Substantial issues are dealt with in ministries by staff coming under them. Whilst acknowledging that ministers should enjoy some leeway in choosing state secretaries, who are de facto close collaborators associated in decision-making, there is nonetheless a compelling argument for introducing/formalising clear integrity criteria for their selection, which currently appear to be lacking. Given the current background exposed in the “context” section, this would be one of several steps (such as through guidelines and training on integrity matters, conflict of interest prevention, third party contacts, and other areas dealt with later in the report) that would contribute to increasing the level of trust of the public for such high-level government posts. Therefore, **GRECO recommends that state secretaries be subject to an integrity check as part of recruitment.**

37. Government advisers primarily belong to the category of “experts to a constitutional official” (“constitutional officials” include – but are not limited to – the President and government members). For the purposes of the Civil Service Act,¹⁶ civil servants include individuals who are working as an expert for government members. However, they are part of temporary civil service. Their appointment differs from that of ordinary civil servants, as they are not subject to the provisions of the Civil Service Act on selection procedure, assessment and qualification development. While a permanent civil servant must pass through a selection procedure which is, one of the conditions for appointment in civil service, the method for selecting “experts to constitutional officials” is not legally regulated. However,

¹⁶ Act No. 55/2017 Coll. on Civil Service.

in addition to these advisers, there are advisers who are hired on the basis of the Labour Code and to whom the principles of the Civil Service Act therefore do not apply.

38. Government members, including the PM, choose advisers at their own discretion. In making this selection, they will in particular take into account their expertise, experience and track record. Advisers report directly to the minister for whom they perform tasks and, by law, the minister also acts in the role of Secretary General of service office, i.e. as the person responsible for his/her employment conditions (section 17 par. 3 (c), Civil Service Act). While advisers do not themselves have executive functions, they will often be closely associated with decision-making powers of the ministers that have selected them and thus, for the purpose of this report, will be assimilated to PTEFs.

39. Those advisers who are “experts of a constitutional official” are in principle bound by obligations and limitations attached to civil service, as per sections 111 and 112 of the Civil Service Act: political neutrality, impartiality and confidentiality, a ban on conducting business, the obligation to report any (even potential) conflict of interest, etc. However, these duties and obligations attached to civil servants do not apply to advisers hired under the Labour Code, who are not assimilated to civil servants

40. The GET notes that the notion of political adviser is governed in practice by a variety of statuses, creating some confusion as to which integrity rules, if any, apply to them. Some are seconded civil servants, others work for the government on the basis of private-law contracts (including sometimes civil servants working in other sectors and advising government as a secondary activity), and others come from the private sector (usually hired on a private-law contract). Those hired as temporary civil servants in government (“experts of a constitutional official”) come within the reach of the Civil Service Act, albeit with the exception of recruitment, assessment and professional development rules. However, this is not the case of those hired with a private-law contract whose status is governed by the Labour Code. The authorities indicate that not all advisers are involved to the same degree in government decision-making, which adds another layer of uncertainty.

41. The GET also heard of instances where persons were hired as “assistants” even though in practice they played a pivotal advising role to a minister, hence making it difficult for the public to know who is an adviser in a position to be involved in government decision-making. Recently, it came out that a close collaborator of the then PM had been in business with a person who had been investigated for links with a criminal network.¹⁷ According to the GET, this situation ought to be looked into in order to ensure more coherence and transparency, including by publishing regularly updated list of advisers, their competences and remuneration on the ministries’ website. Moreover, the GET is of the view that greater certainty on applicable standards would probably be best achieved by ensuring a clearer status as well as common standards applying to all advisers regardless of their contractual situation or work status.

42. Furthermore, the GET notes that the recruitment of advisers is not regulated and that, in practice, advisers are discretionarily chosen by ministers. The GET was told that it was often the case that when advisers were hired from the private sector they would come directly from private corporates to work in the ministry in the same area, with the risk of blurring lines

¹⁷ <https://spectator.sme.sk/c/20770432/italian-mafia-in-slovakia-tentacles-reaching-out-to-politics.html>

between public interest and corporate interest, especially where their work in government leads to calls for tender in the field where their former employer operates – for instance IT – as the GET was informed. Moreover, the GET notes that there has been at least one case where an adviser to the PM was found to have been involved in corrupt behaviour and convicted (see para. 145). Furthermore, its attention was drawn to the fact that the former Police Chief, who had to step down after doubts were cast on his integrity and repeated mass demonstrations in the wake of the murder of the investigative journalist Ján Kuciak calling, *inter alia*, for his dismissal, was hired as an adviser to the Ministry of the Interior shortly afterwards, only to be dismissed some months later once further doubts came to light as to his integrity during his time as Chief of Police. Moreover, it was reported that the above-mentioned close adviser to the PM who had had business ties with the suspected head of a large criminal network had not undergone any security checks prior to being hired.¹⁸

43. The GET is convinced that, while it is perfectly understandable that flexibility should be preserved on the conditions of recruitment and work of political advisers, this should however be counterbalanced by a formalised check upon recruitment, including unambiguous integrity criteria (pertaining notably to potential conflicts of interest linked to their interests and/or those of their dependents, liabilities, secondary activities, links with lobbyists or third parties seeking to influence decision-making, etc.), as well as awareness-raising and training on integrity matters (this aspect as well as other aspects related to conflict of interest are dealt with later on in the report).

44. In addition to above-mentioned political advisers, the government may set up advisory bodies (councils). These advisory bodies fulfil co-ordination, consulting or expert tasks (section 2, para. 2, Government and Central Administration Act). Tasks, composition of Government advisory bodies and principles of meetings are determined by statutes approved by the government (section 2 para. 7). Advisory bodies of ministers, their establishment and their competence are governed by organisational rules of individual ministries.

45. Moreover, the Board of Advisers is composed of individual advisers and a chairperson, who are selected by the PM and whose task is to keep track of priority areas of the Government manifesto as presented to the National Council.¹⁹ It also, *inter alia*, participates in the co-ordination of the preparation of essential measures to ensure economic and social policy; assists in the development and implementation of conceptual and strategic documents resulting from the Government manifesto; draft opinions of analytical nature pursuant to special requests of the PM. The Board of Advisers of the PM has concluded agreements with the Government Office for the performance of work under the Labour Code.²⁰

46. The GET considers that there is also a lack of clarity around the exact role of advisers in advisory bodies that are set up in certain ministries. While these boards' members can be civil servants, notably working in government, they can also be recruited from other sectors. Their remuneration appears not to be systematic, but it is to be assumed that experts from outside the government would be remunerated and so would civil servants hired with a labour-law contract. It is not possible *prima facie* to exclude that board advisers influence government decision-making, and the GET is therefore of the view that like other advisers, it would appear necessary to extend any integrity criteria as mentioned above to those board

¹⁸ <https://acton.org/publications/transatlantic/2018/04/06/cronyism-fueled-murder-slovak-journalist>

¹⁹ The Ministry of the Economy currently does not have any expert of constitutional officials.

²⁰ Act No. 311/2001 Coll. Labour code, as amended

advisers recruited from outside the government. Ethical standards of conduct applicable to them should also be made unambiguous so as to ensure that all advisers be subject to such standards. In this context, the GET also refers to its subsequent recommendation on ad hoc declarations of interests, which also applies to all advisers (see paragraph 103), as well as the need for them to provide a declaration of assets (see paragraph 134)

47. In view of the above, **GRECO recommends that the status of political advisers be clarified: (i) advisers, including those working in advisory boards which may influence political decision-making, should undergo an integrity check as part of recruitment and; (ii) the names of all advisers, their functions and remuneration linked to government tasks should be systematically published on governmental websites**, it being understood that they are also required to make an asset declarations within 30 days of their appointment (see paragraph 134).

Status and remuneration of persons with top executive functions

48. The PM is appointed and recalled by the President (Article 110(1), Constitution). Any Slovak national who may be elected to the National Council can be appointed PM (Art. 110, Constitution). According to constitutional tradition, the President designates a person who has support of the majority of MPs in the National Council. On the proposal of the PM, the President appoints and recalls other government members. Government members cannot be MPs concurrently or hold another post in a public body (Art. 109(2), Constitution).

49. State secretaries and political advisers are selected by each minister for their own ministries and appointed by Government decision. Their term of office is therefore in principle linked to that of the minister concerned.

50. The salaries of government members are regulated by law.²¹ Salaries, functional bonuses, flat-rate allowances and other particulars for government members are determined by the government as specified by law. A government member is entitled to a salary of 1.5 times the salary of an MP²², i.e. EUR 4 293 in 2017, and a flat-rate allowance, which is determined by the government by means of resolution. In addition, the PM is entitled to a functional bonus of EUR 746.87, and the Deputy Prime Minister is entitled to a functional bonus of EUR 497.91.

51. The salary of a state secretary is determined by the minister and the salary of the Head of the Government Office by the PM, pursuant to Civil Service Act. There is no information on the remuneration of advisers hired under a private-law contract, but the salary of those who are civil servants is determined by the Civil Service Act.

²¹ Act No. 120/1993 Coll. on the Salaries of Certain Constitutional officials of the Slovak Republic, as amended

²² The salary of an MP represents three times that of the average nominal monthly salary of an employee for the previous calendar year, which in 2017 reached EUR 954; MPs' monthly salary was therefore EUR 2 862 in 2017.

Anticorruption and integrity policy, regulatory and institutional framework

Anticorruption and integrity policy

52. At the time of the visit, work on an Anti-Corruption Policy was being prepared by the government's Corruption Prevention Department (see below for more detail about this entity). It was to focus primarily on corruption prevention and promoting integrity. The Anti-Corruption Policy of the Slovak Republic for 2019-2023 was approved by Government Resolution No. 585/2018 of 12 December 2018. It is meant to provide a general framework for sectorial action plans and measures to be adopted subsequently. It contains very commendable general goals, some of which relevant to PTEFs, and based, *inter alia*, on the principles of rule of law, "zero tolerance for corruption", accountability, transparency and integrity. This is a sound basis for operational measures for the prevention of corruption concerning PTEFs yet to be developed in another practical document such as an action plan, as appeared to be the intention.

53. Corruption risk evaluation material is being drafted by the Corruption Prevention Department. An electronic format of the questionnaire, which will be the basis for processing of national and sectoral anti-corruption programmes, is being introduced in co-operation with the Ministry of Finance and a private company, which is preparing an electronic risk register for the ministry. This will look into discretionary power and posts exposed to corruption risks. The intention is risk assessments be re-evaluated on a yearly basis. The methodology being prepared will be of a generic nature and can be used also for corruption risk assessment of PTEF.

54. The authorities indicate that each ministry has designated a corruption prevention co-ordinator that should be independent and immune from political influence – they should have access to everyone, including PTEFs. These co-ordinators should be of high moral standing and be adequately trained. Their purpose should be to identify risks and problematic situations and propose measures to address any issue of concern. They should be brought together in a board of co-ordinators to discuss issues going beyond the remit of their respective ministries. The Government Office is to provide advice to co-ordinators on prevention-related issues and propose the ministries the required changes to solve any problem. The authorities contend that for the time being the Government Office implements the ISO 37001 Standard Anti-Bribery Management, on all procedures and employees, including PTEFs. Moreover, ministries have to establish and maintain a financial risk assessment.

55. The GET considers that these developments on corruption risk management in government as positive but, at the same time, that the first steps are very recent (such as the appointment of corruption prevention co-ordinators in each ministry) or ongoing and therefore it is too early to take a position on their effectiveness. Moreover, while the GET understands that the methodology being devised would apply to all government roles in order to determine their exposure to corruption risks, it considers that specific attention should be paid to PTEFs from the start considering their executive powers (or proximity to the exercise of these powers) and for this reason that they are per se highly exposed to corruption risks, as demonstrated by the recent conviction of two ministers (see para 146). This would be important so as to include specific steps to curb corruption risks in respect of PTEFs in any future operational action plan, which does not seem to be tackled in the Anti-Corruption

Policy. This would also respond to mounting expectations from the public in the current general context.

56. At the same time, two ministries have already put in place some form of risk management at their level. The Ministry of Finance has had a long-term risk management system since 2012. A risk catalogue has been developed where all the risks, including the significance of the risks, are identified, including the measures taken to eliminate them. The risk catalogue is updated at least once a year: implementation of the measures is evaluated, significance of risks is reviewed, and newly identified risks are added. In 2017, risks were also added to the risk catalogue in terms of corruption and potential corrupt conduct, including preventive measures. In 2018, the Ministry of Finance presented their system to other ministries giving them the possibility of using their electronic risk catalogue, including initial training, but it is entirely up to each ministry to use their system. The Ministry of Defence has a risk management system approved, effective as of February 2017. The new risk management system was drafted on the basis that a public administration body is required to create, preserve and develop financial management within which it ensures risk management. The GET considers that what is done in the two aforementioned ministries as interesting practice, which could lead the way for other ministries. The only caveat being again that PTEFs should be specifically and wholly covered.

57. In view of the foregoing, **GRECO recommends that an operational corruption prevention action plan is adopted to cover the government, based on a risk assessment specifically targeting persons with top executive functions, and includes particular steps to mitigate risks identified in respect of them.**

Legal framework/ethical principles and rules of conduct

Legal framework

58. The relevant legal framework includes primarily Act No. 357/2004 Coll. on Protection of Public Interest in the Performance of Functions of Public Officials (hereafter, Conflict of Interest Act) and Act No. 55/2017 Coll. on Civil Service (hereafter, Civil Service Act) as well as Act No. 311/2001 Coll. Labour Code as amended (Labour Code).

59. Within the meaning of the Conflict of Interest Act, public officials include, *inter alia*, government members and state secretaries. In exercising their functions, they must refrain from putting their personal interest before public interest. Insofar as people performing these functions are concerned, this Act deals with conflict of interest, incompatibilities, declarations of interest, post-employment restrictions, etc. These matters will be further developed in the dedicated sections of this report.

60. Insofar as civil servants and “experts of a constitutional official” (i.e. advisers who are considered as temporary civil servants) working in government are concerned, the provisions of the Civil Service Act are applicable. It lists in general terms the principles which must be respected by them in connection with conflict of interest, gifts, accessory activities and asset declarations. These matters will be further examined in later sections of the report.

61. In addition, the legal framework for the prevention of undue influence of PTEFs is the recently adopted Act No. 54/2019 on the protection of Persons Reporting Anti-Social Activities

(Whistleblower Protection Act), which regulates conditions for providing protection to persons against unjustified sanctions in employment relationship as it relates to reporting a crime or other anti-social activity, including the rights and obligations of natural and legal persons when reporting anti-social activity. The Act also regulates obligations of the State in the area of prevention of anti-social activity and anti-corruption education and training. Under sections 10 and 11 of the aforementioned Act, ministries are required to designate a person responsible for receiving reports and verifying them. For example, as this was already a requirement under the previous Whistleblower Protection Act No. 307/2014, the Ministry of Labour, Social Affairs and Family adopted a directive whereby a report concerning any anti-social activity may be filed in writing at the address of the responsible person in the Inspection section of the Ministry of labour, social affairs and family or electronically. Such reports may be filed anonymously or not. In the Ministry of the Interior, the Oversight and Inspection Section is the responsible person and logs the reports under a special regulation. This procedure is regulated by a Regulation of the Ministry dealing with the internal system of handling reports of anti-social activity. This Regulation lays down the details of the filing, verification, logging, briefing a person and processing of personal data included in the report.

62. However, the GET was told by many interlocutors that the Whistleblower Protection Act No. 307/2014 had not proved effective in that people had not felt empowered by it to blow the whistle as there was a clear lack of trust in the protection system it sought to put in place. According to a study published by the National Human Right Centre in 2017, overall knowledge of the Act was low. The new Whistleblower Protection Act was adopted on 31 January 2019 and it is too soon to assess whether its new features will strengthen sufficiently the protection of whistleblowers in practice (see paras 237-238).

Ethical principles and code of conduct/ethics

63. There is currently no code of conduct devoted to PTEFs. The only existing code of conduct at government level is the Code of Ethics of the Government Office which applies to its staff exclusively. This code is relatively succinct and lays down a number of rules on conflict of interest, gifts and involvement in public procurement. However, it does not provide any examples that would elicit these rules and make them more concrete.

64. A Code of Ethics for Civil Servants is currently under preparation. This work is undertaken by the Civil Service Council, an independent body set up in 2018. For the purpose of the future code, they have sent out a questionnaire to 37 000 civil servants and received 5 827 replies. The code is to be illustrated by concrete examples of direct relevance to civil servants. This code will be addressed to all civil servants irrespective of the administrative entity where they work. It will therefore also apply to civil servants working in government.

65. While several ministries have adopted codes of ethics in their respective field of competence, this is not a requirement for each ministry and in practice they apply to staff members rather than PTEFs and their content could not be examined by the GET.²³

²³ The Ministry of Labour, Social Affairs and Family adopted in 2013 a Code of Ethics for State Employees and Employees Working for the Public Interest within the Ministry's remit. The Office of the Deputy PM for investments and informatisation applies a Code of Ethics adopted on 2 January 2017, which is published on its website. The Ministry of Transport, Construction and Regional Development adopted a Code of Ethics for ministry employees (2011, revised in 2015). The Ministry of Finance issued a Code of conduct for internal audit for all staff of chapter administrators of the state budget that perform internal audit (2016).

66. The GET notes that the existing ethical rules are for the most part only couched in purely legal terms – and often trying to capture complex situations – contained in the law and that it was not always clear to everyone which rules applied to which category of PTEFs, in particular state secretaries and advisers (see paras. 34-47). This lack of clarity on applicable standards and the absence of concrete guidance on how to apply them in the particular circumstances of government business is a gap that needs to be urgently plugged. In this context, the preparation of a Code of Ethics for Civil Servants, supplemented by concrete examples, is a welcome development. Nevertheless, the GET is adamant that a code of conduct applying specifically to PTEFs (whether ministers, state secretaries, advisers and senior civil servants closely associated with government decision-making) and covering all pertinent issues (conflict of interest, incompatibilities, gifts, contacts with lobbyists and third parties, post-employment restrictions, asset declarations, confidential information, etc.) needs to be developed and accompanied by detailed guidance containing concrete examples connected to government work.

67. Furthermore, in view of the rather broad negative perception amongst citizens regarding the integrity of the political community, it would appear all the more important to adopt a code of conduct for PTEFs that would both serve to clarify for PTEFs what conduct is expected of them and for the public what standards PTEFs agree to abide by when taking office. Ministers and other persons entrusted with top executive functions must set the right tone for public administration, and more generally for public life, and should lead by example. It is particularly important that persons with top executive functions, as well as the general public, are clear as to the applicable standards. It is also important to hold PTEFs to account in case of breach of these standards and therefore to ensure the effectiveness of these standards through adequate monitoring, enforcement and sanctions.

68. Therefore, **GRECO recommends (i) that a code of conduct for persons with top executive functions (ministers, state secretaries, political advisors and senior civil servants closely associated with decision-making) be adopted and made public in order to provide clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, ancillary activities, the handling of confidential information and post-employment restrictions), and (ii) that proper monitoring and enforcement of such a code be ensured.**

Institutional framework

69. The Department for Corruption Prevention of the Government Office was set up in 2017 in order to centralise in one entity the management and in particular co-ordination of the government's anti-corruption policy. It is composed of seven staff members. It was responsible for drawing up the government's Anti-Corruption Policy.

70. The Civil Service Council (CSC) is an independent co-ordinating and monitoring body for protection of the principles of the civil service as enshrined in the Civil Service Act, such as political neutrality, impartiality and transparent recruitment. The CSC has been tasked with preparing a draft for the aforementioned Code of Ethics for Civil Servants which was submitted to the Government Office. The draft is currently still being discussed. The CSC supervises compliance with the principles of civil service and, once adopted, the Code of Ethics for Civil Servants; elaborates expert studies on the application of principles of civil service and

provisions included in the future Code of Ethics of Civil Servants; and handles written reports from citizens or civil servants about violations of these principles by “service offices” (such as ministries). The CSC is accountable to the National Council.

71. The Interdepartmental Anti-Corruption Expert Co-ordination Working Group was established in 2014 under the authority of the Ministry of the Interior to follow and co-ordinate the implementation of government policy documents in the area. Members are representatives from ministries, central state bodies (including NAKA), the General Prosecutor’s Office and the Association of Towns and Municipalities of Slovakia. Representatives of NGOs, Transparency international Slovakia and Fair-Play Alliance were also invited to meetings of the working group as observers. In the continuity of goals enshrined in the rule of law initiative of the approved Action Plan aiming to Strengthen the Rule of Law in Slovakia and the follow-up thereof, the working group was extended to representatives of business associations and chambers of commerce. The GET was told during the visit that meetings of this working group had lately not been held regularly and that some NGOs did not feel their suggestions were given due consideration. The authorities indicate that, in 2017, the Department for Corruption Prevention has taken up this role and that civil society stakeholders are invited. However, one of the main NGOs dealing with corruption in the country has notified that they would not continue participating. The GET would like to underline the importance of maintaining dialogue with all relevant stakeholders, including from civil society, when shaping or reflecting on anti-corruption policies.

72. The Special Prosecutor’s Office has been established to detect and prosecute all cases of corruption, regardless of their scale and including against PTEFs, as well as organised crime. It is now composed of five prosecutors, the number of prosecutors being decided by the Cabinet. Corruption cases are investigated by the Corruption Unit of the National Crime Agency (NAKA) and examined by a special court and on appeal by the Supreme Court.

Awareness

73. PTEFs are not formally informed about risk factors, integrity, ethical principles and rules of conduct. Formally, there are no specific counselling bodies in relation to the above rules and the conduct expected from PTEFs. The general issue of promoting integrity and preventing corruption falls under the competences of the Corruption Prevention Department of the Government Office (Article 17, para. 2, of the Organisation rules of Office of the Government of the SR, hereafter Government Office Rules).

74. An anti-corruption e-learning programme is available within the Ministry of the Interior and will be available in Slovak and English on the ministry’s website. The on-line anti-corruption education programme is designed to improve professional potential, raise awareness and educate employees in public administration, business sector, civil society and the general public.

75. The GET notes the absence of systematic training or sensitisation of PTEFs. It considers that, at a minimum, they should always be properly briefed upon taking up their functions about integrity standards applying to them and the conduct expected of them in terms of conflicts of interest, declarations of interests, contacts with third parties, gifts, etc. This would be facilitated by the adoption of a code of conduct for PTEFs, as recommended earlier in the report (see para. 68). Preferably, this should take the form of training, in particular for advisers

and civil servants. In addition, the GET considers it important to designate someone at government level as confidential counsellor for PTEFs on integrity issues. For the moment, there does not seem to be any formalised procedure for such a purpose. It is not in itself problematic that PTEFs would informally contact someone in their ministry or the Government Office for advice and that would be enough in many cases. However, it might not be well suited for certain more sensitive situations, which would require that confidentiality be imbedded in a counselling procedure. In view of the above, **GRECO recommends that (i) briefing and training on integrity issues be systematically organised and administered for persons with top executive functions upon taking up their positions, and regularly thereafter, and (ii) confidential counselling on ethical issues always be accessible to them.**

Transparency and oversight of executive activities of central government

Access to information

76. The scope of information disclosed is governed by Act No. 211/2000 Coll. on Free Access to Information (Freedom of Information Act, FOI). The FOI applies to the decision-making activities of State authorities, local authorities, municipalities, natural and legal persons insofar as they can decide on individual rights and obligations. The GET notes in this connection that Slovakia has not ratified the Council of Europe Convention on Access to Official Documents (CETS 205), which is to be regretted.

77. The government is required to publish texts of papers (proposals, reports, analyses, minutes) submitted to Cabinet meetings and resolutions adopted, including annexes. They must also publish papers of programming, conceptual and strategic nature and texts of proposed legislation after their release for the inter-ministerial commenting proceedings. The minutes and documents from deliberations of advisory bodies of the government are published on the website of the Government Office (section 5(5), FOI). However, the GET notes that this is not in practice always the case and calls on the authorities to ensure that this is done.

78. Restrictions on access to information concern, *inter alia*, information classified according to law, personal data, and trade secrets. At the same, certain personal details – i.e. name, functions, date of appointment to an office, place of the performance of office, and remuneration – must be provided about, *inter alia*, officials and government experts (section 9, FOI).

79. Information must be disclosed without having to establish legal or other reasons or interest (section 3, FOI). Written contracts concerning the handling of property of the state, municipalities, local authorities or legal persons established pursuant to law or by law or that of handling European Union funds (section 5a, FOI). Such contracts are published in a register managed by the Government Office and published on its website.

80. The GET learnt during the visit that there was an ongoing reflection on amendments to the law to improve access to public documents in practice but that the process has been slow and already started a few years ago. It encourages the authorities to ensure that this process is followed through and, in this context, to consider ratifying the Council of Europe Convention on Access to Public Documents (CETS 205). The GET also refers to its later

recommendation on the insufficient information made public in respect of asset declarations of PTEFs (see paras. 135 and 142).

Transparency of the law-making process

81. The legislative process of draft legislation is regulated by Act No. 400/2015 Coll. on Legislation and on the Collection of Acts of the Slovak Republic. The drafting process of legislation and public consultation procedure are to be carried out on the Slov-Lex website, run by the Ministry of Justice. The author of a draft legislative proposal must publish preliminary information on this proposal before the drafting of legislative proposal formally starts and allow the public to comment on it. The author must briefly outline the main objectives and the theoretical background of the draft legislation, assess the current situation and give the expected date on which the commenting procedure is to start. It is a requirement that draft legislation be published for commenting proceedings.

82. Public debate on draft legislation takes place within the inter-ministerial commenting procedure. A conciliatory procedure with a public representative can be held if the author has not responded to a comment made by a large number of persons from the public and at the same time part of the comment is the authorisation of a representative of the public to represent them (so-called collective comment). The conciliatory procedure with a public representative will always be held if the author has failed to accommodate a group comment agreed upon by at least 500 people. If a group comment has been applied electronically via the portal, the list of people who have identified with such a group comment may be sent to the author in different manner than through the portal.

83. According to the Legislative Rules of Government, an evaluation of the comments submitted and, if the comment has been rejected, the reason for that rejection must be published. Moreover, the author of the preliminary information must also specify how public involvement took place. The public may make comments to the preliminary information within a deadline specified by the author.

84. More generally, Government Resolution No. 645/2014 of 17 December 2014 adopted a Recommendation on public participation in public policies. The document is publicly available on the website of the Government Office.²⁴ When a public institution decides on the level of public involvement in public policy making, it is necessary to consider the following in particular: public interest (stakeholders, professional public and lay persons) in public policy, and how new or changed public policy will affect citizens' lives; it is good to respond to greater interest in and influence of the public by allowing a wider debate and possibly by co-decision making; if the decision is urgent or public debate is not developed, more emphasis is put on informing the public; if the subject is complex, greater focus is placed on working with experts; the resources available for public consultation, although this should not become a recurring argument.

Third parties and lobbyists

²⁴ http://www.rokovania.sk/File.aspx/ViewDocumentHtml/Mater-Dokum-169675?prefixFile=m_

85. There is currently no legislation or other texts regulating contacts of PTEFs with lobbyists and third parties. They are not limited in their contacts with lobbyists and third parties that seek to influence the public decision-making process.

86. The GET notes that the commenting procedure for bills is a way of ensuring some transparency in the legislative process. However, it is here more concerned about informal influence exerted on PTEFs in such cases. Moreover, the GET points out that influence from third parties/lobbyists can also impact on policies and other acts (e.g. regulations, calls for tender, etc.) adopted at government level.

87. Furthermore, the GET notes that there are no other rules regarding contacts of PTEFs with third parties and lobbyists. It is mindful that in a country the size of the Slovak Republic the likelihood that ministers or other officials with executive functions are in some way connected with persons involved in lobbying the government, such as corporate representatives or lobbying consultants, is undoubtedly higher than in larger countries. According to the GET, in no way does this situation justify that there would be no specific rules applying to PTEFs. If anything, the proximity between PTEFs and third parties/lobbyists, who could influence the decision-making process, calls for proper guidance to be provided to PTEFs so as to clearly differentiate what qualifies as strictly private exchanges from meetings that may influence, or may be seen as seeking to influence, the decision-making process. The latter should be duly reported and accessible to the public. The GET understood during the visits that informal meetings between ministers and third parties were not reported.

88. The GET is of the view that the very fact of elaborating such rules would be an opportunity to raise the awareness of PTEFs and call on them to be more scrupulous in reporting on contacts with third parties which previously they may have considered as purely private but that could be informing the decision-making process, whether at ministry level or where it concerns collective government decisions. Considering the current deficit of trust in politicians as shown by repeated large scale demonstrations and persistent allegations made about contacts between PTEFs and corrupt business persons or criminal networks (see paras. 11-15), it would appear all the more pressing that clarity and transparency be brought to any dealings between PTEFs and third parties. This commitment to more transparency would send a positive signal to the public but would need to be followed up with practical steps to ensure that contacts are indeed reported and made public on a regular basis.

89. The GET also draws attention to the [Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making \(2017\)](#), which calls, *inter alia*, for appropriate measures tailored to national circumstances to be put in place in order to avoid risks to public sector integrity that might be created by lobbying activities and guidance to be provided to public officials on their relations with lobbyists. Therefore, **GRECO recommends that rules be laid down to govern (i) contacts between persons with top executive functions and lobbyists/third parties that seek to influence the public decision-making process and (ii) the disclosure of such contacts and the subject-matters discussed.**

Control mechanisms

90. The Ministry of Finance is the state authority responsible for financial control, internal audit and government audit. For this purpose, it provides guidance for and assesses financial control and internal audit performed at ministry level and carries out government audit.²⁵

91. Each ministry has to establish financial control, whose aim is to ensure that transactions are conducted in accordance with principles of sound financial management, transparency, economy, efficiency and effectiveness, as well as legislation and budgetary rules. Aside from financial control, ministries have an internal audit unit whose role is, *inter alia*, to identify and assess potential risks associated with financial management and to recommend improvements in risk and financial management. Internal Audit Units report directly to the minister and is separate and independent from other organisational units within the ministry and from the financial performance control.

92. In addition to assessing financial control and internal auditing, the Ministry of Finance and the Government Audit Office are empowered to carry out government audits. The main objectives of government audits as undertaken by the Ministry of Finance are, in particular, to identify and assess possible financial management related risks, to enhance prevention of fraud and irregularities, and to recommend improvements in risk management. Insofar as EU funds are concerned, they would check the possibility of conflict of interest between those allocating the funds and those benefiting from them. The authorities add that, based on an amendment to the Financial Control and Audit Act that came into force on 1 January 2019, verifying and evaluating the level of corruption prevention is amongst the main objectives of audit.

93. The GET was told that controls undertaken by the Ministry of Finance covered around 60% of EU funds spending per year. The GET was told during the visit that the Ministry of Finance had not identified cases of corruption and that, if there were suspicions, e.g. on procurement, cases were handed over to the National Crime Agency (NAKA). On average, some 10 cases per year are forwarded to NAKA. The authorities underline that these are two separate processes: on the one hand, the Ministry of Finance and Government Audit Office carry out audits and, on the other hand, NAKA investigates any suspicions arising from the audits. When cases are sent to NAKA, they are not included in the audit report in order not to hamper investigations. The Ministry of Finance would only be informed about the progress of investigations regarding EU funds owing to their duty to report to the EU. The GET notes that there have been allegations of misuse of EU funds and that the only leading case against ministers was linked to the attribution of funds via a biased call for tender (see para. 146). It notes that Slovakia is reported to have the highest irregularity and fraud detection rates of all EU Member States in this respect.²⁶ The GET is therefore of the view that the authorities should strengthen their control in this area as pointed out by the European Parliament in its Resolution of 28 March 2019 on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (2018/2965(RSP)).²⁷

94. Overall budget management is controlled by the Supreme Audit Office, an independent state body with a staff of 330, including 250 investigators. The SAO plans its auditing work but can be requested by the National Council to carry out specific audits. They monitor, among other things, the spending of EU funds. They can impose sanctions if their

²⁵ Act No. 357/2015 on Financial Control and Audit.

²⁶ https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf

²⁷ http://www.europarl.europa.eu/doceo/document/TA-8-2019-0328_EN.html?redirect

work is being hindered. In case of findings of infringements, the SAO refers breaches of financial discipline to the Government Audit Office and the Ministry of Finance.

95. To strengthen the transparency and efficiency of public funds spending, the Budget Accountability Board has been established as an independent authority to monitor and review the development of the Slovak Republic's economy administration and review the implementation of the budgetary accountability rules. The Board drafts and submits to the National Council a report on the review of the implementation of the budgetary responsibility rules and budgetary transparency rules for previous fiscal year.

Conflicts of interest

96. Conflict of interest of ministers and state secretaries is addressed by Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in the performance of incompatibility of functions of a public official (Conflict of Interest Act).²⁸ Conflict of interest is defined as situations where public officials, within the meaning of the Act, put private interest before public interest when performing the duties of their office (section 3(4) Conflict of Interest Act). In addition, they are expressly prohibited from using their functions, competence and information acquired in the course of or in connection with the performance of their duties to gain benefits for themselves or close relatives or other natural or legal persons (section 4(2) Conflict of Interest Act).

97. Conflict of interests of civil servants is addressed in the Civil Service Act, which also applies to civil servants working for the government, as well as advisors who are “experts of a constitutional official” and serve in temporary civil service. Under section 111(1)d of the Civil Service Act civil servants must refrain from actions that could lead to a conflict of interest and, under section 111(2)c, civil servants are required to report without delay any real or potential conflict of interest to civil service office. These obligations do not apply to those advisers hired with a contract governed by the Labour Code.

98. In the area of public procurement, conflict of interest is defined in section 23 of Act No. 343/2015 Coll. on Public Procurement (Public Procurement Act). The contracting authority for the purposes of this Act is, *inter alia*, the Slovak Republic represented by its authorities. More detailed definitions of prevention and conflict of interest in public procurement are set out in the interpretative opinion of the Public Procurement Office No. 2/2016 on Conflict of Interest.

99. In order to avoid any conflict of interest in public procurement, any person of the contracting authority involved in the preparation or implementation of public procurement or any other person providing support to the contracting authority in the public procurement procedure or a decision-maker who may influence the outcome of the procurement procedure without necessarily being involved in its preparation or implementation, will sign a “Declaration on conflict of interest”.

100. Within the Ministry of Defence, following the identification of a conflict of interest, the person concerned is either excluded from the process or his/her obligations and

²⁸ For the purpose of this Act, are also considered public officials: the President, MPs, Justices of the Constitutional Court, the heads of central agencies, the Prosecutor General, the director of the Slovak Intelligence Service, etc.

responsibilities are modified. In accordance with provisions of the Public Procurement Act, each member of Commission for the Evaluation of Tenders, after having become acquainted with the list of tenderers, must confirm their non-bias and impartiality by an affidavit.

101. The GET considers that while the notion of conflict of interest is defined in law, there is a crucial need for practical guidance for PTEFs, with concrete examples of situations that can arise from working in and for the government. This is addressed in the recommendation on the need for a Code of Conduct for PTEFs (see para. 68).

102. Section 6 of Conflict of Interest Act regulates the obligation of public officials – ministers and state secretaries – who are involved in a meeting of a body on a matter with bearings on their personal interest, to declare such personal interest before speaking at such a meeting. They are also required to make such declarations when the meeting is held on a matter from which any political party or political movement they are a member of has material benefit, if such fact is known to the official. The notification will be entered in the minutes or record of the meeting. There are no statistics available on how many ad hoc declarations have been made in the last five years. These declarations do not cover conflicts of interest that may arise out of the private interest or activity of others with whom PTEFs have a close association (relatives, business associate, etc.).

103. The GET finds the existing rules concerning ad hoc conflicts of interest concerning ministers and state secretaries rather restrictive: declarations appear to be limited to a statement made at the beginning of a meeting, even if it is entered in the minutes, and such statements do not include conflict of interest that may arise of the connection between these PTEFs and other persons (spouses and relatives, for instance). The GET therefore considers it opportune to revise the existing rules in order to make the obligations for ministers and state secretaries to declare conflict of interest as they arise and not be limited to the asset declarations that they make annually. Moreover, these rules should also apply to advisers hired with a contract governed by the Labour Code who are closely associated with the decision-making process as for the moment are under no specific obligation - contrary to advisers hired as temporary civil servants. Therefore, **GRECO recommends that a requirement of ad hoc disclosure be introduced in respect of ministers, state secretaries and all advisers, regardless of their status, in situations of conflicts between private interests and official functions, as they occur.**

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

104. Incompatibilities of a public office with certain functions, occupations and activities are regulated by section 5 of the Conflict of Interest Act. Ministers and state secretaries, i.e. public officials within the meaning of the said Act, may not perform functions, occupations and activities that are incompatible with their office as per the Constitution and other Acts. A public official may not be the statutory body or a member of a statutory body, a member of the management, control or supervisory body of a legal person conducting business activities, except for taking part in general meetings and members' meetings. Public officials must not conduct business activities.

105. If ministers and state secretaries are performing functions, occupations or activities at the time of their appointment to office, they are required to discontinue such functions, occupations or activities within 30 days from the date of their appointment to office. The above-mentioned restrictions do not apply: (i) to a profession which can be performed only by a natural person or under statutory conditions; (ii) to membership of the body of a legal person as a result of statutory requirements or the execution of their public office; (iii) to representing the State in the bodies of legal persons with State shareholding.

106. The Conflict of Interest Act also regulates the liability of public officials for non-compliance or infringement of the obligations and limitations laid down in the Conflict of Interest Act, including sanctions that may be imposed on public officials for such non-compliance or infringement of duties or limitations.

107. The Conflict of Interest Act does not include a restriction on the ownership of financial market products. However, ministers and secretaries of state are required, within 30 days from taking office and during their term of office each year by 31 March, to submit a written declaration for the preceding calendar year, indicating their assets and that of their spouses living in the same household (section 7(1)e, Conflict of Interest Act). The notion of assets, within the meaning of the aforementioned Act, includes "ownership of financial interest or other asset whose nominal value exceeds 35-times the minimum salary".

108. If a position or function is compatible with the performance of public function, public officials are required to report what occupation they are engaged in (employment relationship, similar employment relationship or civil service relationship) and what business they conduct in addition to exercising their public official functions (section 7(1)(b)) and what functions they hold in state bodies, in bodies of local government, in bodies of legal persons conducting business activity and in bodies of other legal persons (section 7(1)(c)).

109. Insofar as civil servants are concerned, the question of restrictions on outside activities is dealt with in the Civil Service Act (section 112). Civil servants cannot conduct business activities nor carry out remunerated activities identical or similar to those stipulated in their post description. There are a number of exceptions to the principle that they cannot perform additional remunerated activities, e.g. they are allowed to provide healthcare, teach, mediate in collective negotiations, participate in a development co-operation project of the EU to partner countries executed by their "service office" (e.g. ministry) on behalf of the EU and financed by the EU. They must prove within 30 days of joining government civil service the

discontinuation (in particular, the ending, suspending or interrupting) of any business activities or other remunerated activities identical or similar to those stipulated in their post description.

110. The GET notes that legislation covers the notions of activities incompatible with government functions and financial interests held by ministers and state secretaries. However, for the sake of greater clarity and connection to real situations, the legislation would need to be supplemented with practical illustrations and the possibility of getting advice in order to ensure that ministers and state secretaries are clear as to what needs to be done with any outside activities and financial interests they may have had when taking up office. This should be explained in the needed Code of Conduct for PTEFs and illustrated by concrete examples directly relevant to PTEFs, used in any compulsory briefing/training, and confidential advice should also help for this purpose (see relevant recommendations in paras. 68 and 75).

Contracts with state authorities

111. In the performance of their duties, ministers must refrain from anything that may be in contradiction with the Conflict of Interest Act. To that end, they may not arrange for themselves, related persons, another natural or legal person (except in cases where such conduct is part of the exercise of their public office) any business relations with the State, a state enterprise, a municipality, local authorities, the National Property Fund or other legal persons founded by the state, a budgetary organisation or a contributory organisation founded by a municipality or local authorities, or other legal persons with state shareholding, National Property Fund, municipality or local authorities.

112. In addition, ministers may not acquire assets of the state or National Property Fund by any other means than through public tender or public auction. This also applies to persons close to ministers. Moreover, a minister may not enter into silent partnership agreements or acquire bearer shares by any other means than through inheritance.

113. The authorities indicated that state secretaries are not prohibited or limited in entering into contractual relations with state authorities directly through their business interest. However, the GET notes that state secretaries are listed among public officials covered by the Conflict of Interest Act, which would mean that the same restrictions applying to ministers should apply to them. This demonstrates the need for more clarity regarding this category of PTEFs as to which rules apply to them. The adoption of a code of conduct for all PTEFs would certainly contribute to that (see para. 68).

Gifts

114. Ministers and state secretaries must not solicit or accept gifts or other donations or incite others to provide gifts or other benefits in connection with the performance of their office, in accordance with the Conflict of Interest Act. The prohibition does not apply to gifts provided in the performance of their functions or legally provided gifts. The Conflict of Interest Act does not provide any definition of a gift, nor does it establish any limit to the value of an acceptable gift. It also does not lay down any procedure for handling or returning gifts that cannot be accepted. These issues are usually addressed at the level of individual ministries. However, from the examples provided, the GET notes that internal regulations appear to focus on the offering of gifts by the ministries rather than on the acceptance of gifts by PTEFs.

115. The Code of Ethics of the Government Office in its Article 5 regulates the matter of receiving gifts and other benefits, restrictions on possible obligation to reciprocate for possible services provided or offered benefits including the acquisition of assets from selected entities. However, this code only applies to staff from the Government Office and not staff from ministries.

116. Insofar as civil servants (including advisers who are “experts of a constitutional official” and considered as temporary civil servants) are concerned, the Civil Service Act expressly states that they cannot accept gifts or other benefits in connection with their duties, with the exception of those provided by their “service office” (e.g. ministry) and gifts provided at official discussions and meetings. They cannot either request gifts and benefits or incite another person to provide gifts and benefits linked to them discharging their duties. The authorities indicated that the future Code of Ethics for Civil Servants would cover this issue and provide examples, but would fall short of setting any threshold.

117. The GET understands that since the visit an amendment to the Conflict of Interest Act was passed on 31 January 2019 in order to introduce obligations to declare gifts or other benefits (such as the use of immovable and movable property belonging to a third party) if the value of the gifts or benefits from one donor or the value of one gift exceeds 10 times the minimum wage (EUR 520 in 2019). This amendment should enter into force on 1 January 2020.

118. From the GET’s exchanges during the visit, it came out that the notion of gift lacked clarity. Whilst the principle is that no gifts should be accepted by PTEFs, this is not an absolute ban and there are exceptions. However, there is no practical definition of what gifts can be considered acceptable for ministers and secretaries of state, as per the Conflict of Interest Act. Similarly, for those PTEFs falling under the Civil Service Act, the principle of no gift is not without exceptions. Obviously, in the current state of affairs, this can lead to different interpretations as to which gifts should be refused or which ones can be accepted. In addition, there is no register for gifts received from PTEFs. Even assuming that certain ministries have regulations on gifts, from the information gathered, the GET has not been convinced that this is enough to convey a clear message for all PTEFs and for the public as to what gifts are considered acceptable or not.

119. Moreover, no threshold on the value of gifts or on the annual amount of gifts from the same person was defined in law at the time of visit (or in the future Code of Ethics for Civil Servants). The amendment to the Conflict of Interest Act passed by the National Council in January 2019 and due to enter into force in January 2020, does provide for thresholds for gifts and other benefits. However, the GET is concerned that the thresholds appear far too high (EUR 5 200), which will hamper the true effectiveness of the amendment.

120. The GET considers that the situation taken as a whole calls for more precision and increased transparency. More clarity could be achieved through practical guidance to elucidate what the law means by acceptable gifts. In this respect, the GET also points out that other GRECO member States often use low value thresholds in order to establish strict limits on gifts and other benefits, something from which the authorities could draw inspiration. More transparency appears all the more important in the current context and the extent of mistrust in politicians expressed by the public in recent mass demonstrations calling for increased integrity. This could be best served by setting up an obligation for PTEFs to register

any gift they may receive in their professional capacity and a registration mechanism. This should be set up in a way that the public is made aware of gifts received by PTEFs and from whom at regular intervals. Therefore, **GRECO recommends establishing more stringent rules on gifts and other benefits for persons entrusted with top executive functions in the form of appropriate practical guidance, the obligation of reporting them and informing the public.**

Misuse of public resources

121. Under the Criminal Code, there are sanctions for various actions of public officials by which they abuse their position or function, such as embezzlement (Article 213), unauthorised use of foreign assets (Article 215), fraud (Article 221), credit fraud (Article 222), subsidy fraud (Article 225), breach of obligations in management of foreign assets (Article 237), unauthorised business (Article 251), unfair liquidation (Article 251b), abuse of information in business transactions (Article 265), fraudulent conduct in public procurement and public auction (Article 266-268), misuse of public authority (Article 326), obstruction of role of public officials (Articles 327-327a), and more generally corruption offences (Articles 328-336b).

Misuse of confidential information

122. Under section 4(2)a of the Conflict of Interest Act, ministers and state secretaries may not use information acquired in the course of, or in connection with, the performance of their office in order to gain benefits in their own favour or that of close persons or other natural or legal persons; this does not apply to an activity or task which results from the exercise of their public office.

123. Similarly, the Civil Service Act stipulates that civil servants must observe secrecy about facts that they have been acquainted with as part of their duties and which must not be divulged in the interest of civil service (section 111(1)c).

Post-employment restrictions

124. Post-employment restrictions which apply to ministers and state secretaries regarding employment or other paid or unpaid activity and on representative functions in private companies are regulated in the Conflict of Interest Act (section 8): any public official who, at any time during the period of two years before the end of his/her office, approves the granting of state aid to natural or legal persons or grants or approves another subsidy or benefit to such persons or releases such persons from generally binding regulations or individual legal acts – or whose decision or approval to the above is necessary – may not during the period of one year after leaving office: (a) take up employment with such persons and receive a wage higher than ten times the minimum wage; (b) become a member of the management, controlling or supervisory board of these persons; (c) become a partner, member or shareholder of these persons; (d) conclude a procuration or mandate agreement, commission contract, brokerage contract; commercial representation contract, silent partnership agreement or donation agreement with these persons. Moreover, the same prohibition applies to officials who in the period of two years before the end of their office (a) conclude a contract with a tenderer in a public procurement procedure executed above a certain threshold; (b) hold the competence of the founder in relation to legal persons.

125. Public officials, such as ministers, are under the obligation of obtaining prior consent for planned or current activity in the event of leaving office. They must submit, within 30 days of the end of the one-year period following the end of their office, a written declaration for the previous calendar year indicating (a) the person whom s/he was employed by or with whom s/he had a similar relationship; (b) the legal person of which s/he was a member of the management, controlling or supervisory board; (c) the legal persons of which s/he became a member, shareholder or partner; (d) the persons with which s/he concluded a procuration or similar agreements.

126. There does not appear to be any rules regarding civil servants and advisers employed with a private law contract either, other than a standard clause in labour law contracts on non-disclosure of information and the principle that civil servants are not meant to divulge confidential information (see previous section, para. 123).

127. The GET notes that there are post-employment restrictions in place that apply to ministers and state secretaries. However, these seem rather limited in scope as they appear to apply only when a minister or state secretary has been engaged in prior particular dealings (e.g. provided subsidies, taken particular decisions, etc.) in respect of a potential future employer. In the view of the GET post-employment restrictions should go further also to cover post-employment situations when the particular know-how of a minister may result in potential conflicts of interest in connection with future employments (i.e. when moving to an employment in an area which came under the minister's portfolio or when s/he may have influenced recent cabinet decisions). Moreover, the GET wishes to stress that rules on post-employment restrictions ought to be laid down for advisers and any senior civil servants closely associated with top executive functions (such as secretaries general and senior civil servants working directly under a minister or state secretary). It has already noted that advisers could be appointed directly from the private sector in order to work in government in their area of expertise without any formal integrity checks being undertaken, which has led to recommendations in paragraphs 36 and 47. Conversely, they can freely go back to the private sector straight after leaving government employment. Similarly, senior civil servants who have acquired first-hand experience in government business can be an asset for corporates and in order to avoid any undue influence on them before joining the private sector and while still in government, some post-employment rules would be in order. Moreover, existing rules for ministers and state secretaries, while positive, should be broadened to cover lobbying the government straight after leaving office.

128. Therefore, rules on post-employment restrictions should cover the particular situation where PTEFs would be offered employment involving their lobbying government straight after leaving it.²⁹ This can, for instance, be addressed through cooling-off periods when public officials intend to work in specific sectors impacted by their particular knowledge or where they have been involved in the regulation of related issues, and through declarations before accepting employment from the moment they will leave government functions. Moreover, this should be read in conjunction with the lack of practical rules on contacts of PTEFs and third parties (see para. 89). Consequently, **GRECO recommends that (i) post-employment restrictions be broadened in respect of ministers and state secretaries and laid down for**

²⁹ See [Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making](#), which cites as a possible measure "a "cooling-off" period, namely a period of time that has to elapse before either a public official may become a lobbyist after leaving public employment or office".

advisers and senior civil servants involved in top executive functions and (ii) rules on persons with top executive functions expressly prevent lobbying activities towards the government for a lapse of time after they leave government.

Declaration of assets, income, liabilities and interests

Declaration requirements

129. Ministers and state secretaries are required to declare assets and the holding of financial interests, sources of income, liabilities, in accordance with section 7(1) of the Conflict of Interest Act. Asset declarations are to be submitted within 30 days from taking office and during their term each year by 31 March for preceding calendar year.

130. Assets are understood, within the meaning of the Conflict of Interest Act, as: (a) real property, for residential and non-residential use; (b) movable property, whose customary value exceeds 35 times the minimum salary³⁰; (c) property rights or other assets whose nominal value exceeds 35 times the minimum salary; or (d) liabilities whose subject matter is payment in cash in nominal value exceeding 35 times the minimum salary.

131. Gifts are not listed in the declaration as accepting gifts and other benefits in connection with the execution of one's functions is prohibited (section 4(2)(b) Conflict of Interest Act); there is a presumption that no gift was accepted. As to gifts that are not covered by the prohibition (e.g. customarily provided in the exercise of public office or by law), they are declared as part of real property, movable property or property rights or other assets (see also section on gifts, paras 114-120).

132. Public officials are required to indicate in their asset declaration their own assets and those of their spouse and minors living in the same household, including personal data in the scope of title, name, surname and permanent address.

133. All asset declarations of public officials are published on the website of the National Council. Personal data of public officials are provided or disclosed in the following extend: name, surname and function they hold. This does not apply to assets and personal data of spouses and minor children living in the same household as public officials. Moreover, the Committee on Incompatibility of Functions, which is responsible for overseeing declarations (see following section), keeps a supplementary register for the purpose of verifying the completeness of declarations, which contains information about the type of office, the name of the public official and the date of submission of their asset declaration.

134. With regard to advisers of government members, who are considered as "expert of a constitutional official" and assimilated to civil servants, and secretaries general, they submit asset declarations within 30 days of their appointment and by 31 March of each year for the previous calendar year (Civil Service Act). It is to include information on real property, movable property, property rights and other assets (section 114(2)). While movable assets and other valuable assets have to be assessed, there is no such requirement for immovable property. There is an additional requirement for officials working in government at senior level ("position of extraordinary importance") to solemnly declare that they have no knowledge of

³⁰ The monthly minimum salary in the Slovak Republic was approximately at EUR 520 in 2019; therefore, the reference sum of 35 times the minimum salary is EUR 18 200.

persons living in their household that would possess incomes considered as untaxed or from dishonest origin. While advisers assimilated to civil servants have to produce asset declarations, it does not appear to be the case for those advisers who are coming from the private sector and hired with a private-law contract, and this discrepancy should be rectified (see recommendation on the status of advisers in para. 47).

135. The GET was told during the visit that the information from asset declarations that was made available to the public by the National Council was rather limited and, for instance, did not include the value of real estate property or movables and gave little more information than the categorisation of the asset. This made it difficult to know if an asset described, for instance, as a house one year was in fact the same the next year. Since the visit, legislation has been adopted in order to ensure that more information be declared by public officials within the meaning of the Conflict of Interest Act, and therefore including ministers and, in principle, state secretaries. However, the GET is struck that the threshold of 35 times the minimum wage for declaring assets is too high. Likewise, the threshold for civil servants to declare their movable property, property rights and other assets is also too high at EUR 35 000. As a result, the GET is of the view that in order for the declaration system to contribute to the transparency of public life, the authorities should review it so as to strengthen declaration requirements, including by lowering the existing thresholds, and to increase transparency vis-à-vis the public, as way of contributing to better public trust in PTEFs given the current context. A balance must be therefore be found between the right to privacy of PTEFs and the need for increased transparency owing to their executive functions (see recommendation in para. 142).

Review mechanisms

136. Government members and state secretaries submit their asset declarations to the National Council's Committee on Incompatibility of Functions. It has two staff members - Secretary of the Committee and assistant – and an external collaborator who is a lawyer. The Committee itself has 15 members.³¹ The Committee submits reports on the results of reviews conducted to the National Council.

137. Verifications are in practice carried out by the Committee's secretariat and are limited to the completeness and adequacy of the declarations. The secretariat can crosscheck information in the declarations with the data from business registers and other public registers. The Committee may, in case of doubt, ask the public official for an explanation. The GET was told during the visit that it represented one third of declarations. If the explanation is not sufficient, the Committee is authorised to initiate proceedings under section 9 of Conflict of Interest Act. When it comes to failing to submit the declaration in due time, providing incomplete or incorrect information, this procedure can lead to the imposition of fines (one month's wage for not filing a declaration in time, three months' wage for providing incomplete or incorrect information in their declaration. Decision of the Committee is to be adopted by a resolution by a simple majority, except for a decision to discontinue proceedings which requires a three-fifth majority in the National Council. The Committee's vote is public.

138. The evaluation of asset declarations under the Civil Service Act is regulated under section 115. The secretary general will examine or arrange for a review of the completeness

³¹ Financial Resources: the NRSR Office is a state budget organization with annual budget: revenues: EUR 1 280 000, outcomes: EUR 39 681 953.

of the asset declaration and, if necessary, will instruct the civil servant in writing to provide more specifics or complement the asset declaration within the 30-day of delivery of such instruction. If there are reasonable grounds as for the truthfulness of the declared data, the civil servant is also required to submit, in case of real property, proof of the manner and date of its acquisition, the cost of its procurement, and in case of self-built property, and the construction costs incurred. If there are reasonable grounds as for truthfulness of the declared data, the civil servant is also required to submit data on movable assets and property rights and other assets even if their aggregate value is less than EUR 35 000.

139. If, on the basis of asset declaration, there is doubt as to whether the civil servant asset gains exceed the aggregate value of their salary and other quantified income, the civil servant is required to quantify their value or to prove their origin. In order to fulfil this obligation, the Secretary General will give the civil servant a reasonable period of at least 60 days.

140. Moreover, according to the Proof of Origin Act (Coll. 101/2010), if a person is found to have assets the origin of which s/he cannot justify, the public prosecutor may “demand decision to voice acquisition of property from illegal income”. However, the GET was told that this statute has never been applied. It also notes that the threshold for applying it appears quite high at EUR 480 000.

141. The GET notes that the existing verification mechanism operated by the National Council’s Committee on Incompatibility of Functions is rather limited and essentially circumscribed to formal checks. This is partly linked to the Committee’s limited resources, notably in terms of available staff to carry out the checks; this was already pointed out in the Fourth Round Evaluation Report on the Slovak Republic as the verification mechanism is common to MPs (also public official within the Conflict of Interest Act). For any meaningful verification to take place and serve better transparency, the body responsible for this verification should be undertaking more than cursory verifications and, for this purpose, should, *inter alia*, have adequate resources and improved auditing capabilities. Moreover, the GET was told that a handful of sanctions had been imposed on PTEFs as a result of the verification of their asset declarations. Since 2016, two ministers were fined for filing in incorrect information and incomplete declarations.

142. In view of the above on both declarations and their verification, **GRECO recommends that the system of asset declarations for persons with top executive functions be strengthened (i) by lowering the thresholds above which assets need be declared and by making public more information contained in the declarations of assets; (ii) by ensuring that adequate verifications are carried out, including through appropriate resources and auditing capabilities of the control body, and sanctions applied.**

Accountability and enforcement mechanisms

Criminal proceedings and immunities

143. Government members, state secretaries or other PTEFs do not enjoy immunity or any procedural privileges. There is no special criminal procedure for PTEFs. However, for certain crimes that the PTEF may commit, the substantive jurisdiction falls to the Specialised Criminal Court as stipulated under Article 14 of the Code of Criminal Procedure (Conflict of Interest Act).

144. The National Criminal Investigation Agency (NAKA) brought indictment against four public officials during the period in question, with two cases involving ministers (misuse of powers of public official in conjunction with the crime of endangering commercial, banking, postal, telecommunications and tax secrecy and also for offense of harming foreign rights and misconduct of public official in conjunction with the crime of fraudulent practices in public procurement), in one case involving a Head of civil service office of State material reserves of the Slovak Republic (misuse of powers of public official in conjunction with the crime of breach of obligations in administration of foreign property) and in one case involving consultant to PM (indirect corruption).

145. An adviser to the PM (2010-2012), M.N., and another government official, I.N., were convicted of indirect corruption (Article 336(1) Criminal Code, with accessory pursuant to Article 20 Criminal Code) by a judgment of the Specialised Criminal Court on 12 August 2014 and confirmed by the Supreme Court on 18 June 2015. In 2011, M.N. organised a meeting first with the Director of the Government Office in order to obtain funding from the government for the works on a biathlon sports facility. A meeting was later organised with the PM at which the funding was agreed. A formal funding application was subsequently made to the Government Office and the Ministry of Education and Sport. This application was followed by M.N. and I.N. They asked from the beneficiary of the grant a bribe equivalent to at least 10% of the amount of the grant (EUR300 000 from the Government Office) and in order to secure a further grant from the Ministry of Education and Sport (EUR1.3 million). The Specialised Criminal Court imposed on M.N. an unconditional prison sentence of 18 months and on I.N. an unconditional prison sentence of 15 months. At the same time, they were imposed a penalty of EUR 15 000. M.N. at the time of the offence served as adviser to PM and as such was a PTEF, as acknowledged by the authorities.

146. In a final decision of the Supreme Court of 15 November 2018, two former ministers (successive ministers of Construction and Regional Development) were found guilty of tampering with a call for tenders in 2007 with the result that the call was won by the only bidder, a consortium of companies with links to the leader of the political party to which the minister was affiliated. They were not convicted of corruption, but abuse of power and illegal practices during a public procurement procedure. M.J., the minister in office when the call for tenders was made, was sentenced to an unconditional prison sentence of 12 years, a penalty of EUR 30 000 and the prohibition of employment, occupation or public office for a period of five years. I. Š., who was a senior official at the ministry when the call for tenders was made and then replaced M.J. as minister, was sentenced to an unconditional prison sentence of 9 years, a penalty of EUR 30 000 and the prohibition of employment, occupation or public office for a period of five years.

147. Although, the GET welcomes the fact that ministers can be prosecuted according to regular criminal procedure, it notes that the case involving ministers took 10 years from beginning to end and heard from interlocutors some frustration because a number of charges had to be dropped as a result of the offences' status of limitation, and that many wrongdoings went undetected. Another case concerning contacts established by a businessman with prominent politicians, including in government, for the purpose of corruption, came to light in 2011 and is still ongoing (see para. 14). Another aspect of which the GET was informed is that the specialised corruption investigative body of the Police Force, known as NAKA, and the Special prosecutor service deal with all corruption cases regardless of their complexity and the sums involved; some interlocutors were of the opinion that this could hamper its capacity to deal in a timely and most effective way with the more sophisticated corruption cases. Moreover, focusing on more intricate corruption cases could call for higher specialisation and training of police officers tackling them. In this respect, the GET considers that the remit of NAKA and/or its capacity could be a matter for reflexion in order to improve the effectiveness of investigations into the more complex corruption cases.

Non-criminal enforcement mechanisms

148. Proceedings on the matter of protecting public interest and prevention of conflicts of interest between public officials (President, government members and state secretaries) are regulated by sections 9 to 11 of Conflict of Interest Act. The National Council's Committee on Incompatibility of Functions is responsible for carrying out these proceedings.

149. If infringements have been detected, the Committee will, either on its own initiative or after a substantiated complaint against a public official, start proceedings on public interest protection. The decision of Committee on Incompatibility of Functions must be adopted by at least three-fifth majority of Committee's present members – the proceeding will be otherwise suspended. The Committee's quorum is simple majority of its members.

150. The sanctions and measures are regulated by section 9(6) to (10) of the Conflict of Interest Act. They range from having to give up outside activities incompatible with their functions, to penalties of up to 12 times the salary of a public official in case of inaccurate information or failure to provide information or loss of their office if the officials have failed to meet the requirement of the Act or to provide information or provided incorrect information and failed to give satisfactory explanations.

151. The disciplinary liability of civil servants (including advisers who are "experts of a constitutional official") is regulated by the Civil Service Act, more specifically in sections 117 to 121. The Secretary General of Civil Service Office in each ministry is responsible for carrying out those proceedings. A breach of service discipline by civil servant is considered by a secretary general on their own initiative or upon request of a superior, to whom the civil servant in question is reporting. The superior may file such motion within 15 days of the day they learned of the breach of service discipline (section 118(1), Civil Service Act). If a serious breach of service discipline had occurred, the Civil Service Office may immediately terminate the civil service employment of the civil servant. Those advisers hired with private-law contracts would see the common rules under the Labour Code applied to them. Once more this issue should be harmonised for all advisers in connection with a clearer status as per the recommendation in para. 47.

152. The Public Defender of Rights (Ombudsman) is an independent body which protects fundamental rights and freedoms of natural and legal persons in proceedings before public authorities and additional public authorities if their conduct, decision-making or inaction is in violation of legal system. In statutory cases, the public defender of rights may be involved in exercising the accountability of persons acting within public authorities if they have violated a fundamental right or freedom of natural and legal persons. All public authorities must provide the public defender of rights the necessary co-operation.

153. The authorities were not able to provide any statistics on disciplinary proceedings other than criminal proceedings concerning PTEFs. The GET considers that this opacity is not conducive to improving the trust of the public in the strict abidance of PTEFs to integrity rules. In this respect, it would like to refer to its recommendation on a code of conduct for PTEFs that should be accompanied by proper enforcement (see para. 68).

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability law enforcement/police authorities

Overview of various law enforcement authorities

154. No agency is technically defined as a law enforcement authority (LEA) in domestic law; it relates rather to individuals having law enforcement authority. Pursuant to Article 10(1) of the Code of Criminal Procedure (CCP), prosecutors and police officers have law enforcement authority. The Public Prosecutor's Office is separate in both its personnel and chain of command; this has already been covered by the Report of the 4th Evaluation Round.

155. As to police officers, they are defined in Article 10(8), (9) and (10) CCP. This includes investigators and other officers from the Police Force, alongside, *inter alia*, custom officers from the Criminal Office of Financial Administration,³² officers from the Military Police for criminal offences committed by members of the armed forces. This evaluation will therefore focus on the Police Force, which deals with general policing in the country.

Organisation and accountability of selected law enforcement authorities

156. The Police Force is composed of the main headquarters, 8 regional directorates and 53 district directorates. Criminal Police Departments (CPDs) are established within each district directorate. The Police Force includes several branches, including the Bureau of Border and Foreigner Police and the National Crime Agency (NAKA). The Presidium of the Police Force, its governing body, is part of the organisational structure of the Ministry of the Interior.

157. The operational independence of police investigators is guaranteed by Article 201(3) CPC, section 7(1) of Act No. 171/1993 Coll. on Police Force as amended (hereafter, the Police Force Act or PFA), and section 26 of the Regulation of the Minister of the Interior No. 175/2010. All police officers must be politically neutral and act in manner that does not give rise to any doubt on them preferring any political party or political movement (section 48(5), Act No. 73/1998 Coll. On Civil Service of Members of the Police Force, Slovak Information Service, Prison and Judicial Guards of the Slovak Republic and Railway Police as amended by later regulations, hereafter the Act on the Civil Service of the Police Force or Act No. 73/1998). Furthermore, pursuant to section 2 of Regulation of the Minister of the Interior No. 3/2002 on the Code of Ethics of Police Officers, as amended, "a police officer performs service activity regardless of religious, racial, national, social, political, class and other external factors."

158. According to the Police Force Act, the activity of the Police Force is subordinated to the control of the National Council and the government (section 1(2) PFA). The Head of the Police Force, who is appointed and dismissed by the Minister of the Interior, is answerable to the minister (section 6 PFA).

159. As of November 2018, the total number of members of the Police Force was 22 000. The global percentage of men and women as a statistical category is not kept. Insofar as police officers, with more senior positions, the breakdown is as follows:

³²As agreed by GRECO, administrative customs services and tax authorities are excluded from the Fifth Evaluation Round.

	men	women	total
Authorised officer	1 004 (75%)	337 (25%)	1 341
Investigator	746 (67%)	356 (33%)	1 102
Senior Investigator	160 (75%)	55 (25%)	215
Senior Investigator specialist	140 (75%)	45 (25%)	185
Total	2 050 (72%)	793 (28%)	2 843

Access to information

160. Access to information as well as legal restrictions on access to information related to the activity of the Police Force are laid down in the CPC. Within criminal proceedings, certain categories of persons are specified, who are authorised to obtain information on criminal proceedings due to their procedural position.

161. More generally, the Police Force informs the public about criminal proceedings pursuant to the Criminal Code, by providing information to the media. However, in doing so, they must observe the protection of classified information, business secret, banking secrecy, tax secrecy, postal secret, or telecommunications secrecy. The public and the media are informed about specific cases in accordance with Article 6 CPC, or in order to obtain specified information in connection with criminal proceedings, Freedom of Information Act may also be used (see paras 76-80).

Public trust in law enforcement authorities

162. According to the authorities, corruption in the Police Force is a highly latent phenomenon. The authorities underline that the manner in which police officers are involved in corruption are sophisticated and difficult to document, since it involves a specific group of perpetrators familiar with criminal tactics and techniques, investigative procedures and methods.

163. According to the [Eurobarometer on corruption](#) for 2017, 45% of respondents felt that the taking of bribes and use of power for personal gain was widespread in the police, above EU average which stands on 31%.

Trade unions and professional organisations

164. Police officers, in line with their interests, are organised in Police Unions Association of the Slovak Republic, with 9 400 members, and New Trade Union of the Police, with around 400 members.

Anti-corruption and integrity policy

Anti-corruption strategy and implementation

165. In accordance with the government anti-corruption policy, a Strategic Plan to Combat Corruption in the Slovak Republic was approved including with the Police Force Presidium by Resolution of the Government of the Slovak Republic No. 517 of 10 August 2011, and several times updated after that and was followed by an Action Plan on the Rule of Law in 2015, which however was not specific to corruption prevention in the police. It is no longer in force.

166. The National Criminal Agency (NAKA), as the primary repressive authority in relation to corruption offences, was extensively involved in the prevention of corruption. Up until recently, all fundamental anti-corruption policies were developed within the agency's jurisdiction. However, by establishing the Corruption Prevention Department within the Government Office in 2017, the powers in question were largely delegated to the said department.

167. The GET notes that the current state of affairs is as described in paragraph 52 and that the Government Office's Corruption Prevention Department is now responsible for the Anti-Corruption Policy which is to cover all areas. The GET notes that there is no dedicated chapter on corruption in the police in this policy document. Moreover, it understands that there is no specific strategic document focusing on corruption affecting the police and based on specific risk assessments carried out in the police (see para. 176). Whilst the GET does not contest that there is merit in having an overarching policy document on preventing corruption, at the same time this should be supplemented by a specific operational strategy to respond to the established risks in connection with the police, based on risk assessments shining a light on particular risk areas and finding ways to address such risks. This should go hand-in-hand with a structured follow-up of how these measures are implemented. While the GET understands that ministries, including the Ministry of the Interior, will have to take steps to implement the new Anti-Corruption Policy, it notes that for the moment the Policy does not address the question of police integrity and corruption prevention within the police and there is no strategic document focusing on it as yet.

168. In view of the above as well as considering what has been described in the context chapter of the current report, that there is a strong perception among the public as well as within the police itself that corruption is a highly latent phenomena in the police, the GET is critically concerned that there is currently no clear strategy in place targeting these problems in a dedicated manner. It is therefore crucial that the fight against corruption within the police is stepped up. A prompt establishment of an anti-corruption strategy for the police and a plan for its implementation should be given the highest priority by the Slovak authorities. Consequently, **GRECO recommends that the fight against corruption within the Police Force be strengthened by (i) establishing an operational anti-corruption strategy on the basis of risk assessments identifying risk areas and measures to mitigate such risks and (ii) determining concrete measures for its implementation.**

Ethical principles

169. There are a number of rules applying to all police officers, such as those enshrined in the Act of the Civil Service of the Police Force (for instance on asset declarations, ban on conducting business, etc.) and internal regulations. In addition, professional ethics, morals and principles of conduct of police officers are governed by Regulation of the Minister of the Interior No. 3/2002 on the Code of Ethics of the Police Force, as amended (hereafter, the Code of Conduct). Guided by the European Code of Police Ethics adopted by the Council of Europe, this Code of Ethics was drafted by a commission composed of representatives of the Ministry of the Interior and the Presidium of the Police Force in 2001 and amended in 2003.

170. According to the Code of Conduct, police officers must act with impartiality; must not abuse their status, their service rank and access to information to gain personal benefits or benefits for other legal and natural persons; must refrain from any business activity that would be in contradiction with their independence and with proper performance of their duties; and must not tolerate corrupt or unethical behaviour from colleagues.

171. The obligation for police officers to observe the Code of Ethics in the conduct of their professional activity is enshrined in section 8(1) PFA. Provisions of the Code of Ethics are part of police duties, the observance of which is also required by section 48(3) of the Act on the Civil Service of the Police Force. At the same time, there is no specific mechanism in case of breach. In the event of a failure to observe any of the provisions of the Code of Ethics, the police officers concerned may be subject to disciplinary proceedings by their superior.

172. Police officers are familiarised with the Code of Ethics through its dissemination in all workplaces, in-house training sessions for superiors who are to cascade their knowledge down, distribution of leaflets with the basic obligations, publication on the police force's intranet and internal magazines, and incorporation into internal regulations, etc.

173. The GET notes that the current Code of Ethics is a short one-and-a-half-page document made up of eleven articles setting out principles of a general nature, few being directly linked to preventing corrupt conduct. While it gives quite an abstract statement of principles on sometimes relevant notions such as conflict of interest and incompatibilities, it leaves out for instance the crucial issue of gifts and focuses more on ensuring public-service oriented behaviour (e.g. no discrimination, courteous contacts with the public, no disproportionate use of force). Moreover, this document was last revised in 2003. In order to guarantee the highest standards of professional conduct, the GET considers it urgent to revise this Code of Ethics not only to take into account the latest developments in corruption prevention (including in relation to the use of social medias) but also, importantly, to supplement it with proper guidance, in the form of a single document (rather than sporadic explanations), that would be easily accessible. Each article contained in the Code of Conduct should be explained so that the code becomes more than a rather generic statement of principles, as is currently the case. Guidance should be understood as a manual including practical examples, notably based on experience in the Slovak Republic, to illustrate the complexity of the situations covered by these principles and steps to be taken to avoid or defuse corruption threats. This should start with the very notion of conflict of interest, which should be made plain clear and properly illustrated. This manual should be the backbone of initial and continuing training and should be a living instrument that takes stock of recent developments.

174. The GET stresses that revising and supplementing the Code of Ethics is an absolutely crucial exercise to ensure that these principles find true resonance in the day-to-day work of police members. This revision should go hand-in-hand with the identification of risk areas so as to adapt illustrations accordingly (see para. 176). Moreover, another important dimension is the information of the public about this revised code so that they know what conduct to expect from the police in carrying out their duties, therefore contributing to reducing corruption risks and reinforcing trust in the police. This implies not only making the code available to the public but take active steps to publicise it. For these reasons, **GRECO recommends that (i) the Code of Ethics is updated and covers in detail all relevant integrity matters (such as conflict of interest, gifts, contacts with third parties, outside activities, the handling of confidential information), supplemented with a manual illustrating all issues and risk areas with concrete examples; (ii) all awareness and training to police members be based on this revised Code of Ethics and manual and (iii) the Code of Ethics be made known to the public.**

Risk management measures for corruption prone areas

175. The Control and Inspection Service Department of the Ministry of the Interior produces an annual report on criminal activity of police officers as an informative document to the government. The report analyses criminal offences committed by police officers and compares them with criminal activity of the previous period. The Office of Control and Inspection Service has a decisive role in the area of combating criminal activity of police officers. The Inspection Service has substantive jurisdiction to detect and investigate offences of police officers or former police officers if the offence has occurred during their service term, as well as in cases where the suspected perpetrator is a police officer and the offence was committed prior to their employment within police force. In addition to the Inspection Service, NAKA is also involved in detecting and establishing police crime. A crime report is published on the website of the Ministry of the Interior.

176. The GET notes that the analysis work produced by the Control and Inspection Service Department of the Ministry of the Interior, the Office of Control and Inspection Service and NAKA appear complementary and would undoubtedly gain in being pulled together to identify in a systematic way the areas and services where corruption risks are most prevalent and set clear goals to mitigate such risks. The GET notes that the authorities themselves have underlined the complex nature of corrupt conduct in the Police Force (see para. 162). The GET considers that it would be beneficial that a fully-fledged risk assessment mechanism be set out, based on existing disparate reports, in order to map out risk areas on a regular basis to take into account the dynamic nature of corruption. For instance, the issue of public procurement should deserve attention. Risk assessments should feed into a strategic document to combat corruption in the police (see recommendation in para. 168). Therefore, **GRECO recommends that a risk management mechanism be established in order to identify corruption risks and emerging trends at regular intervals.**

Handling undercover operations and contacts with informants and witnesses

177. The authority of law enforcement members in criminal proceedings is governed by the CCP, which also regulates the manner of performing individual actions of criminal proceedings including undercover operations and contacts with witnesses. However, the CCP does not regulate the use of informers. Act No. 166/2003 regulates wire-tapping outside criminal

proceedings: in corruption cases, the special court will give authorisation if it has been established that all other means have been used. The prosecutor can also issue a warrant which needs to be confirmed by the court within 24hrs.

Advice, training and awareness

178. Insofar as initial training is concerned, the Code of Ethics is part of the curriculum of basic police training and specialised police training. The subject "Ethics and psychology of police work" aims to teach students to be able to apply principles of ethics and the Code of Ethics in their service activity. Basic police training is the first comprehensive part of the study over six weeks, at the end of which the students are subjected to a first comprehensive examination of their knowledge; successful completion of basic police training is a prerequisite for continuing onwards. The subject "Public order police service" aims to teach students to apply the Code of Ethics in their professional work (contact with citizens, application of the Code of Ethics in performing service). The topic is also included in the course on "Obligations of police officers pursuant to PFA". In practical lessons, students are expected to resolve real-life situations, including in the area of compliance with provisions of the Code of Ethics (e.g. police officer may not refer to persons in their first name, is required to respect human rights, etc.).

179. The topic of corruption is generally incorporated in all school curricula of secondary vocational schools of the Police Force and is taught within the subject of police ethics and psychology as a separate area of "Corruption within the Police Force", which focuses primarily on corruption as one of the most serious phenomena persisting in our society. It includes topics such as "analysis of the current state of corruption police force officers and specific cases of corrupt behaviour of individuals", "causes that affect the increase of corruption within the police force" and "the most common forms of corruption within the police force", accepting gifts and corruption, and unethical conduct both inside an institution and towards citizens are presented on the basis of specific examples.

180. In the field of practical aspects of corruption investigation, training is also focused on professional lectures, mainly on "corruption, their causes and forms, possible corrupt conduct of police officers, fight against corruption, evaluation of crime of police officers with emphasis on corruption". The lectures are held within the time allocated for the subject law, usually, when reading a special part of Criminal Code. The use of knowledge gained by control activity and the adoption of preventive measures taken in practice are relied on.

181. As part of training, trainers on all subjects also use generalised knowledge published by the Control and Inspection Section of the Ministry of the Interior, namely the "Report on criminal activity of police officers for specific year" and the "Report on complaints and petitions within the jurisdiction of Ministry of the Interior" for a specific year.

182. In order to strengthen the fight against corruption within the jurisdiction of NAKA (National Criminal Agency), training and international seminars on new trends in the prosecution and elimination of illegal conduct are organised for police officers active in the field of detection and investigation of criminal offences of corruption. Professional seminars in the form of lectures and interactive seminars conducted by domestic and international lecturers are organised on an annual basis. Professional seminars with participation of police officers from NAKA are also organised by General Prosecutor's Office. A small group of police

officers also have the opportunity to attend some training on corruption organised by the EU Agency for Law Enforcement Training (CEPOL).

183. The GET appreciates that efforts have been made to streamline education on the Code of Ethics and corrupt conduct in the Police Force into the initial and professional training of police members. That said, the GET considers that more efforts could be done to ensure that professional training for all Police members regarding integrity is part of their professional advancement programme so that the spotlight is kept on the topic. The focus seems to be more about investigating corruption rather than preventing it within their own ranks. Moreover, the GET has already noted that the current Code of Ethics is both insufficient in its breadth, as it leaves out some problematic issues, and lacks guidance in the form of a manual containing illustrations, which would make it a truly operational tool. The GET considers that not only training but day-to-day awareness is closely linked to the Code of Ethics and its manual, which should be the reference point. Therefore, training needs to cover in no uncertain terms all areas of concern and this should best be ensured by using as the prime reference a revised all-encompassing Code of Ethics, supplemented by practical guidance, based on identified risks. In that respect, it refers to its earlier recommendation in paragraph 176. Moreover, the GET heard from several interlocutors that police staff was not always sufficiently trained to tackle complex corruption cases and for this reason, it considers that efforts should be made to strengthen ongoing training of staff dedicated to corruption-related investigations in order to increase their capacity in leading investigations into more sophisticated corruption cases.

184. Furthermore, the GET notes that there is currently no advice procedure for police members to obtain confidential counselling on integrity matters. Given the role played by superiors in the assessment of police members or disciplinary measures imposed on them, the GET does not deem it an acceptable solution that, other than informally, they would be the ones to provide integrity advice as appears to be currently the case. The GET considers it a gap that needs to be bridged by having adequately trained, easily accessible persons of trust to whom any police member can turn in confidence in order to obtain information on integrity issues. This would be important, for instance, where police officers want to report what they perceive as misconduct, for example involving their direct superiors, and want confirmation before blowing the whistle and seek protection.

185. In view of the preceding paragraphs, **GRECO recommends that (i) training of police officers on integrity matters applicable to the police be strengthened and better connected to their professional development; (ii) specialised training for investigators dealing with corruption cases be enhanced; (iii) that a system of trained persons of trust be appointed in order to provide confidential counselling on ethical and integrity matters to all police members.**

Recruitment, career and conditions of service

Appointment procedure

186. Conditions of admission to the Police Force are regulated by the Civil Service of the Police Force Act (CPA) and by relevant internal regulations. The Police Force recruits upon publication of vacancy notices. The CPA stipulates that, in order to join the Police, candidates must be Slovak nationals over 21 years of age; meet the condition of good character,

reliability, level of education intended to perform the function to which they are to be admitted or appointed; be in good health - mentally and physically fit to perform the service; speak the state language; have permanent residence; not be a member of any political party or political movement as of the date of admission into civil service; have capability to perform legal acts in full; and, as of the date of admission into civil service, cease to perform activities that are prohibited pursuant to section 48(6) of the aforementioned law (see section dedicated to incompatibilities). Since February 2019, amendments to the CPA stipulate that candidates over 18 can serve in the cadet's state service to obtain basic police education and, only after graduation, do they become members of the police force.

187. Within the recruitment procedure, candidates submit a written application, curriculum vitae and documents establishing their civil status. They may be requested to submit a report from previous employers or other documents necessary to verify their aptitude to perform civil service in the Police Force. They will undergo stringent physical tests and psychological evaluations. An interview takes place with the superior officer. A ranking of successful candidates (usually around one out of ten candidates) is made. It is for the superior officer to choose from the most successful candidates. The ranking and results are published.

188. The law lays down the exact conditions for appointment and promotion to any rank (section 20, CPA). According to the law, when a candidate is recruited to a position that requires full secondary education, s/he is appointed to the rank of sergeant. If a position requires first level university education, s/he is appointed as sub-lieutenant. If the position requires second level university education, s/he is appointed to the rank of junior lieutenant. If, prior to admission to service employment, they had pursued activities in a field in which they obtained a second level university education and which corresponds to the position they are to be assigned or appointed to, they may be appointed to the rank of lieutenant or higher, up to the highest rank intended for the function they are being assigned or appointed to.

189. The GET notes the absence of general statistics on gender balance in the Police Force as whole and the fact that, amongst more senior posts, 72% are occupied by men and only 28% by women (see para. 159). The GET underlines the importance, not only to keep statistics but also to promote gender balance in the Police Force. It has not been informed of any ongoing policy to achieve better gender balance in the Police Force, in particular through recruitment. The GET adds that diversity is important to avoid groupthink and in turn corruption. Therefore, **GRECO recommends that measures be taken to increase the representation of women in the Police Force, including in more senior positions.**

190. Insofar as the Chief of Police is concerned, the postholder used to be appointed directly by the Minister of the Interior. However, growing concern was voiced in the public as regards the perceived politicisation of this post. This culminated in the massive demonstrations that followed Ján Kuciak's murder and led to the then Chief of Police stepping down. As a result, the process for designating the Chief of Police was revised in December 2018. A Selection Committee is to examine whether candidates fulfil the requirements of the post (managing, organisational and control skills, professional knowledge and other experiences) and publish a reasoned report on the selection procedure. This committee is composed of one representative designated by the Prosecutor General, two representatives designated by the Minister of the Interior, one by the current Chief of Police, one by the Police Inspection Service, one member by the Police Academy and one by the trade union with most members. A list of three candidates is forwarded to the Security Committee of the National Council,

which is to hold public hearings with each candidate and make a recommendation for appointment by the Minister of the Interior. If the Selection Committee has selected less than three candidates, the Minister of the Interior will send to the Security Committee the names of all candidates that the Committee assesses as appropriate. Moreover, if the Minister of the Interior refuses to appoint the candidate recommended by the National Council the procedure will start from the beginning.

191. The GET considers that changes in the procedure could prove to be a positive development given the controversy surrounding the postholder that had to step down, as mentioned above. However, it emphasises that transparency must be ensured throughout this new process, as also recommended by the European Parliament in a resolution of 29 March 2019,³³ to ensure that public trust is regained. The first appointment according to these new rules has taken place in early 2019 and has seen the person who was acting Police Chief be confirmed in the post following the new competitive procedure. The GET is of the opinion that, given the sensitivity of the issue, the authorities should keep under review the new process in order to ensure both transparency and credibility of the system is guaranteed. The GET is of the view that a similar procedure would gain in being applied to other sensitive posts in the Police Force, such as the head of NAKA.

192. Vetting is based on the principle of “good reliability” as understood under the CPA. This is broader than simply checking criminal records. It includes background checks using the police database, verifying their place of residence, their connections, ensuring that they have no addiction to alcohol or narcotics, no incompatible activity, etc. During their career, vetting appears to be essentially aimed at criminal investigators in special units. There is a presumption of integrity unless proven otherwise. In principle, police officers should inform their superiors about changes in their personal circumstances. At lower levels, vetting is undertaken by a superior officer (but not the immediate superior). Security clearance is carried by the National Security Office for the highest posts to grant access to sensitive information (they check property, cars, consult other people, etc.) and is carried out more regularly.

193. From what the GET learnt about the vetting process existing in practice, it is not convinced that it is sufficiently stringent, systematic and regular to be as effective as desired. The low trust of the public in the police and allegations of influence of criminal networks on certain police members that have come to the surface is particularly relevant in this respect.³⁴ The GET underlines that vetting is essential at recruitment but also vital throughout the career of police members. Certain police members are in regular contacts with individuals belonging to criminal networks as part of their duties and corruption risks should not be underestimated. Police members can also easily become more exposed to corruption by reason of the evolution of their personal situation (e.g. financial difficulties having arisen for various reasons) or because of their functions (e.g. border control, public procurement). Therefore, regular proactive checks should take place, in particular in those areas identified as more exposed to corruption risks.

³³ European Parliament resolution of 28 March 2019 on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (2018/2965(RSP)), para. 35

³⁴ <https://spectator.sme.sk/c/22090775/antonino-vadala-contacts-police-special-prosecutor-office-investigation.html>

194. Addressing corruption risks depends on regular and thorough checks, with a clear focus on corruption prevention. A periodicity of integrity checks should be set out, regularity depending on the exposure of the post and the level of security required, and it should be carried out by trained personnel, preferably outside the direct chain of command, as is currently the case for the high-ranking posts. It should make use of all relevant information, including regarding the financial situation of the staff concerned, and be prompted also when doubts arise. In the same vein, the requirement for police members to provide information about any change in their personal situation as it could give rise to higher exposure to risks (e.g. financial situation being impacted by divorce, a sick dependent or a mortgage) should be made clear to all police staff, in particular in risk areas, and should be included in the code of conduct and its manual. A strictly regulated and applied integrity check system is thus a crucial element of corruption prevention in the police. Therefore, **GRECO recommends that the security check system be strengthened, including by ensuring that integrity checks take place at regular intervals in the careers of police members, depending on their exposure to corruption risks and the required security levels.**

Performance evaluation and promotion to a higher rank

195. The evaluation of police officers is mainly based on the CPA as well as internal regulations (e.g. regulation of the Minister of the Interior No. 21/2017 on the evaluation of civil service performance by police officers), which lay down the conditions and procedure for their evaluation.

196. In order to ensure that the evaluation is objective and formalised, a unified approach was established by law, based on common criteria for evaluating police officers and measuring their performance. The evaluation criteria are laid down in section 27(2) and include the integrity and reliability.³⁵ The frequency of evaluations is also defined by law and must take place at least once every five years and whenever there is a significant change in the capability of a police staff to perform his/her functions (section 27(6)). The evaluation is performed by the police officer's immediate superior and validated by the superior who appointed him/her. The police officer has the possibility of appealing against the conclusions of the evaluation.

197. In addition, aforementioned Regulation of the Minister of the Interior No. 21/2017 regulates the manner, extent and degree of the evaluation of police officers in the Presidium of the Police Force, regional police force directorates and district police force directorates. According to the Regulation, the evaluation of police officers must be carried out by their immediate superior once a year. Knowledge of generally binding legislation and internal regulations is verified by written test. Measurable criteria are prepared by the immediate superior with higher superiors based on the quality, quantity and timeliness of the service performed and the autonomy and initiative of the service performed. This is coupled with a point scale, which goes from excellent to unsatisfactory. A written record of the evaluation is produced by the immediate superior. In case of disagreement, the evaluation is forwarded to

³⁵ The full criteria are: a) knowledge of the legislation and its application in the performance of civil service; (b) knowledge of the internal service regulations on which the police officer was properly briefed; (c) the performance of civil service in terms of soundness, speed, autonomy and initiative; (d) fulfilling the duties of police officer or a superior in observing service discipline; (e) meeting the qualification prerequisites for the function; (f) integrity and reliability of police officer pursuant to Section 14, 2 and 3; (g) ability of the police officer for further performance of function performance of civil service.

the higher superior and the police officer can request that it be reviewed by a board. The board's decision is final.

198. Police officers are eligible for promotion to a higher rank if they concurrently meet three legal conditions: assignment to a position for which a higher rank is intended than the one they currently have; the prescribed period of service has lapsed in the rank since their last promotion; and they meet the qualification requirement for police education for such rank.

Rotation

199. There is no legal basis for a system of regular rotation as a corruption prevention measure. The GET learnt that rotation has been used on an ad hoc basis in the Border Force to sever ties with criminals but that it was neither established practice nor regulated. There does appear to be any practice of rotation in other branches of the Police Force. The GET considers that rotation as way of preventing any corrupt behaviour from arising from holding the same post over a prolonged period of time should be given proper consideration as it can prove a useful prevention tool, especially in areas identified as more exposed to corruption by risks analysis. The authorities indicate however that the principle of rotation was considered and that several drawbacks were identified such as the need to adapt the police education system (requirements on specialisation), legal obstacles and the size of the country. Nevertheless, the GET considers that this represents a typical risk management measure (see paras. 175-176) and that, at least in areas more exposed to risks, the possibility of rotation would gain in being further developed and systematised.

Termination of service and dismissal from office

200. Failure of police officers to comply with the requirement of their post or violations of prohibitions are considered disciplinary offence for which the superior officer will impose appropriate disciplinary measures, depending on the nature of the breach and the circumstances under which it was committed. In case of an act considered to be a serious violation of professional duties or discipline, dismissal from service will be decided. For instance, if a police officer performed activities incompatible with law, they are required to cease them, otherwise it would be a reason for dismissal.

Salaries and benefits

201. Annual salaries vary from EUR 6 436 up to EUR 10 576 depending on the grade (Section 85, Civil Service of Members of the Police Act). To this sum is added a bonus fixed by law depending on the years of service, going from 6.1% for 2 to 4 years to 30.5% for 12 to 15 years, the maximum being 67.1% for more than 32 years of service.

202. Police officers who are assigned to the position of senior officer – commissioned police officer (summary investigation), investigator, senior investigator and senior specialist investigator – have a gross annual salary upon appointment as follows:

- senior officer - commissioned police officer: EUR 14 976
- investigator: EUR 16 992
- senior investigator: EUR 17 820
- senior specialist investigator: EUR 18 138.

203. Senior police officers within the Criminal Police Departments are provided during their service period, for instance, a housing allowance depending on their placement within departments, organisations and bodies of the Ministry, units of the Police Force and on the place of their deployment.

Conflicts of interest

204. Definitions and/or typologies of conflicts of interest are not precisely and exhaustively defined and can only be extracted from the Code of Ethics of Police Officers. However, the prevention of conflicts of interest is regulated by Constitutional Act No. 357 of 26 May 2004 on Protection of Public Interest in the Performance of Functions of Public Officials. Act No. 73/1998 contains language to the effect that police officers must refrain from conduct, which could lead to a conflict between an important interest of civil service and personal interests. In addition, the CPA stipulates that police officers must refrain from any action that could lead to a conflict of interest, in particular not to misuse information obtained in connection with the service for their own benefit or that of another person; refrain from any action that could disrupt the seriousness of the Police Force or jeopardise the trust in the Police Service; inform their superior of any family links that come into play during service; not to engage in political activities.

205. In order to prevent conflict of interests, the Code of Ethics defines relations and other similar relationships of police officers in civil service. In this regard, police officers who are close relatives are not allowed to be assigned to civil service in manner that one would be a direct subordinate to another or be subject to their treasury or financial supervision. A national who applies for admission to civil service is required to report such facts to the civil service office. Section 31 of the Code of Criminal Procedure also covers cases of related persons.

206. Article 31(1) of the Criminal Code stipulates that police officers are to be excluded from the execution of criminal proceedings where there is doubt as to their bias due to their relation to the case under review or to persons directly concerned by such case, such as defence counsels, legal representatives, or due to their relationship with other authority acting in the same proceedings. Objection of bias under Article 31(4) may be brought by parties to criminal proceedings but also by investigator/police officers themselves if they consider their interests to be in conflict with the interests of the case under review.

207. As previously indicated, the GET considers it primordial that the Code of Ethics be revised so as to be more explicit about integrity obligations that each police member must respect. This includes the very notion of conflict of interest which ought to be made clear and illustrated by concrete examples of situations in which police members can find themselves (from smaller breaches such as the use of official cars for private purposes to more serious ones such as leaking confidential police information). In this respect, it refers to its recommendation on the Code of Ethics (see para. 174).

Prohibition or restriction of certain activities

Incompatibilities and outside activities

208. Police officers may not be members of a political party or political movement, nor may they act in their benefit, unless it involves a public position during the term of which the performance of police functions are suspended. Police officers cannot perform any other paid function, conduct business or other remunerated activity or be a member of administrative or supervisory bodies of legal persons engaged in business activity. This prohibition does not apply if, in the performance of their duties, they act as undercover agents or if such membership in the body of a legal person is provided by law.

209. The prohibition of other remunerated activities knows a number of exceptions. It does not apply to the provision of healthcare in healthcare facilities; personal assistance pursuant to special regulations; scientific activity; educational activity; lecturing; giving speeches; pastoral activity; publication activity; literary activity; sport or artistic activities; court expert activity; interpretation and translation; educators, instructors, or middle-level health workers in camps for children and youth; mediator and arbitration activity in collective bargaining; administration of one's own property; management of property of their minor children; management of assets of a person with limited or no legal capacity; or advisor within an advisory body of the government; and performance of member of the electoral commission or function of member of referendum commission or member of polling commission on recall of President; activity of a petition committee member; activity of persons invited to carry out supervision or inspection pursuant to special legislation; performance of function of member of body of Antimonopoly Office, the Deposit Protection Fund or Investment Guarantee Fund of and to activity of member of the commission for investigation of aviation accidents or in assessing medical capability of civilian aviation personnel (section 48(7) of Act No. 73/1998).

210. The GET is struck by the long list of exceptions to incompatibilities. This calls for unequivocal guidance and appropriate checks to ensure that any additional activity carried out by police members is in line with the set rules. Therefore, **GRECO recommends that guidance should be developed regarding standards for police officials regarding additional activities and that effective procedures should be in place to control any additional activity taken up by them.**

Gifts

211. All police officers are prohibited from accepting gifts or other benefits in connection with performance of their service, with the exception of gifts or other benefits provided by public authorities as appreciation of exemplary performance of their service obligations. As it is a very sensitive area, the GET considers it important that the notion of gift be clearly and unambiguously defined in the Code of Ethics and that detailed examples be provided of concrete situations where gifts can be offered and must be turned down. In this respect, the GET refers to its prior recommendation on the Code of Ethics in para. 174.

Misuse of public resources

212. Reference can be made to the offences laid down in the Criminal Code (as mentioned for the PTEFs in para. 121), in particular embezzlement (Article 213), misuse of public authority (Article 326), obstruction of role of public officials (Articles 327 - 327a), and more generally corruption offences (Articles 328 - 336b).

Third party contacts, confidential information

213. Act No. 73/1998 contains language to the effect that police officers must not abuse information obtained in connection with service performance for their own benefit or for the benefit of other person (section 48(3)). This is covered by Article 8 of the Code of Ethics.

214. An obligation of confidentiality is also defined in section 80 PFA whereby police officers are required to keep confidential facts they have learned about, or in connection with, performing tasks of the Police Force and which, in the interest of legal or natural persons, are not to be divulged to any unauthorised person. The duty of keeping secrecy may be waived by the Minister of the Interior or President of the Police force. The authorities indicate that the information leakage control system is continually updated and that in most cases offenders are disciplinary punished.

215. While acknowledging what is in place, the GET nonetheless deems it desirable that proper guidance be given on both the handling of confidential information, which goes hand in hand with adequate vetting (see paras 193-194) and contact with third parties, as a way of reinforcing the prevention of leaks. This should also take into account new means of communication, including social media. This appears all the more important as there have been allegations of leaks regarding high profile investigations such as that of the murder of Ján Kuciak, some reportedly involving high-ranking police officials.³⁶ The GET is of the view that this should be ensured by including this matter in the future manual illustrating integrity standards contained in the code of conduct that applies to members of the Police Force (para. 174).

Post-employment restrictions

216. Post-employment restrictions that would apply to police officers leaving the Police Force are not regulated. The GET underlines the opportunity of certain employment outside the Police Force can entail risks (offers of jobs as rewards, use of communication channels with former colleagues or specialised knowledge on police procedures for the benefit of new employers, etc.). This is not without links with the duty to respect the confidentiality of police information and contacts with third parties (see above). Specifically for certain police functions, it would be advisable to put stricter post-employment regulations in place (for example, when certain persons in the financial intelligence unit would move to a financial institution to work as a compliance officer). Therefore, **GRECO recommends that rules be adopted to ensure transparency and limit the risks of conflicts of interest when police officers leave the Police Force to work in other sectors.**

³⁶ <https://spectator.sme.sk/c/22007961/police-wanted-to-arrest-nitra-based-businessman-bodor-in-connection-to-kuciaks-murder.html>; <https://spectator.sme.sk/c/22105666/screening-journalists-monitoring-kocner-kriak-police-toth.html?ref=av-right>

Declaration of assets, income, liabilities and interests

Declaration requirements

217. Police officers are required to submit an asset declaration within 30 days of taking up employment, and before 31 March of each calendar year. Part of the asset declaration is also an affidavit of the police officer saying that they have no knowledge of such income of persons living with them in the same household, which can be considered as undeclared income or as income from illicit sources.

218. The duty of police officer for the duration of service to declare their assets in the asset declaration is defined by provision of section 48a of Act No. 73/1998. Police officers make an annual asset declaration with the following information included:

- real estate, legal grounds for acquisition, date of acquisition and cost of acquisition;³⁷
- data on any movable assets whose value exceeds EUR 6 638.78, legal grounds for acquisition, date of acquisition and valuation of such assets;³⁸
- data on property rights or other valuable assets whose value exceeds EUR 6 638.78, legal grounds for acquisition, date of acquisition and appraisal of such property rights or other valuable assets;
- data on movable assets, property rights and other assets, even if their value does not exceed EUR 6 638.78 individually if their aggregate value exceeds EUR 16 596.95.³⁹

219. Declarations are made to the superior officer who appointed them or assigned them to their functions. The superior officer keeps a register of filed asset declarations and they are subsequently inserted in the personal files of police officers. Declarations of police officers' relatives are not required. Police officers' asset declarations are not published.

Review mechanisms

220. The police officers' superior officer - but not their direct superior - when assessing the asset declaration, will proceed in such a way as to prevent any misuse. The assessment is carried out exclusively at the premises of the police unit and in a way to protect the content of the asset declaration from other persons. If necessary for the purposes of proceedings related to asset declarations to have other persons acquainted with its content, disclosure is

³⁷ Real estate is primarily considered arable land, vineyard, hops field, permanent grassland, orchard, garden, forest land, water area, built-up area and courtyard, building plot, other plots, family house, apartment building, apartment, non-residential real estate, garage, retail and service building, industrial building and warehouse, building for individual recreation, buildings under construction if they are registered in real estate register and other structures pursuant to special regulation.

³⁸ An apartment and non-residential premises, cash money in euro and foreign currency, deposits in banks, branches of foreign banks or in foreign banks in Euros or in foreign currency are also considered assets.

³⁹ Movable asset is primarily considered cash in both Slovak currency and foreign currency, deposits in banks and branches of foreign banks in Slovak currency and foreign currency, deposits in banks established abroad in Slovak currency and foreign currency, equipment for household and other space intended for living, collection of stamps, collection of banknotes, collection of coins, jewellery, machine, apparatus, device, work of art, security, receivable, property right and other asset. Pursuant to section 2(2) of Act No. 566/2001 Coll. on Securities and Investment Services and on the amendment of certain Acts (Securities Act), a security will be, for instance, bonds, deposit certificates, investment coupons, cheques, stock certificates, etc. Means of transport are for instance personal vehicle, motorcycle, lorry, tractor, trailer, bus, boat, airplane.

possible but only with prior consent of the police officer in question pursuant to special regulation.

221. Assessments of asset declarations consist of the examination of completeness and accuracy of submitted data, determining whether the police officers' assets are consistent with their income and other quantifiable earnings from activity permitted under law. Assessments are recorded by the superior officer on the last page of the "asset declaration" form, indicating whether the assessment has revealed any infringement of the law, together with suggestions to resolve such infringements. The record is to be included in the evaluation date and signature of the superior officer.

222. If the superior officer has reasonable doubts as to the completeness or accuracy of data provided in the asset declaration or the manner in which money was acquired to purchase an asset listed in the asset declaration, s/he will issue a written instruction to the police officer in question to complete the data provided in the asset declaration or to demonstrate the manner in which money to purchase the asset in question was obtained. The manner of obtaining this money is declared by the police officer in an affidavit specifying the source of such income and, upon request of the superior, also an account statement from the bank, a bank or insurance document, a donor's confirmation, etc. The police officer is required to complete the data in the asset declaration or to demonstrate the manner of obtaining funds necessary to purchase an asset listed in the asset declaration no later than 30 days after becoming acquainted with such written instruction. Otherwise, disciplinary proceedings may be started. In case of incorrect information, it can lead to a sanction of reduction of salary of 15% for up to three months and longer in more serious cases. As part of security vetting, the National Security Office has also competence to control assets.

223. During the visit, the GET gathered information whereby the control system concerning declarations of assets of police officers was not functioning effectively. According to the GET, it is worrying that, in the current system, no specific training is organised for superior officers carrying out verifications for what can prove a rather technical control, if done beyond cursory checks. Furthermore, in order to guarantee as objective a control as possible, the GET is of the view that checks ought to be carried out remotely from the service where the police officer works. Furthermore, there should be an opportunity to combine information from other public records – for example registers for real estate, cars and the tax authorities – and the possibility of undertaking onsite visits to verify the information received. In effect, the GET was told by the authorities that no statistics were kept on sanctions related to declarations, and some interlocutors reported that no sanctions appeared to have in fact been imposed over the last 10 years, which indeed begs the question of the effectiveness of the mechanism as it stands. In view of the above, **GRECO recommends that the control system of declarations of assets of police officers be strengthened, including by ensuring that control is carried out outside the chain of command and that statistics on sanctions are kept.**

Oversight and enforcement

Internal oversight and control

224. Internal oversight follows the chain of command and is carried out by the police officer's superiors. In case of suspected offence by a police member, the Ministry of the Interior's Control and Inspection Department (CID) is competent to look into the matter. The

CID is a separate unit not coming under the Police Force Presidium but directly under the Minister of the Interior. It is composed of experienced investigators with at least 12 years' experience. However, Act No. 06/2019, amending and supplementing Act No. 171/1993 on the Police Corps, provide for the establishment of the Office of Inspection Service (OIS). The OIS became effective on 1 February 2019. It is a unit within the remit of the Ministry of the Interior and is divided into the Inspection Department, the Control Department and the Organisational Department. The OIS is a special part of the Police Force operating throughout the territory whose task is to detect, investigate and shorten investigations into crimes committed notably by members of the Police Force. The OIS operates under the supervision of the Prosecution Services and, in corruption cases, by the Specialised Prosecutor's Office.

External oversight and control

225. Public prosecution office supervises lawfulness of conduct of preliminary investigation proceedings and therefore exercises control and is authorised to give instructions. External control by the state authorities over the professional chain of command is therefore carried out by supervising prosecutors, who for this purpose follow the provisions of Code of Criminal Procedure.

Complaint system

226. Unlawful conduct by members of the Police Force can be reported through an electronic form, "report on police officers suspected of committing crime", published on the website www.minv.sk. Moreover, it is possible to file a complaint or report anonymously on the so-called "green line" of the Ministry of the Interior. Complaints may also be filed in writing or by e-mail. In the event of misconduct by a law enforcement officer, the complaint is forwarded to supervising prosecutor, in accordance with section 210 of CCP, who will make a decision about the complaint.

227. An internal system of handling complaints imposes obligations on public authorities to set up an internal control system for receiving and handling complaints that will point not only to unlawful conduct but also to other unfair, unethical or uneconomical conduct, including anonymous reports notifications of serious anti-social activity.

228. The procedure for filing, handling and scrutinising complaints is regulated by Act No. 9/2010 on Complaints. The OIS is therefore competent to make decisions on complaints against police officers. A decision not to investigate a case can be verified and reviewed by the Internal Control Department or externally by the Prosecutor General's Office.

229. The predecessor of the OIS, i.e. the CID, published annual reports on handling complaints. A substantial part of these documents compiling complaints and petitions reports were data compiled and entered into the information system of central complaints register (IS CEVISTA) throughout the year by officers of the Presidium of the Police Force and control units of Regional offices of the Police force, as well as by employees of the Internal Control and Complaints Division of the CID. These reports on complaints and petitions reporting within the Ministry of the Interior were published on the ministry's website.

230. Measures to raise citizens' awareness of complaints and complaint handling system with the aim of encouraging them to make complaints and protect them are conducted mainly

through the media, education and training activity of Ministry of the Interior (e.g. annually during the Police day, etc.) as well as through the internet (information is continually updated).

231. Whilst the GET notes that the authorities investigating police misconduct are separate from the Police Force, they do come under the Minister of the Interior as does the Police Force. Therefore, while inspection services are technically autonomous from the Police Force, which is positive, a number of interlocutors reported that an apparent lack of independence was detrimental to the way the complaint system is viewed by the public. It also notes the recent establishment of the Office Inspection Service (OIS) to replace the former Control and Inspection Department. The OIS being under the Ministry of the Interior, the GET is not sure that this, on its own, will help change this perception. The GET understands that the possibility of an external, independent complaint mechanism has been examined and not deemed a suitable option, which the GET regrets. The Public Defender had also advocated for an independent authority to deal with those complaints about police misconduct which have not been controlled by a prosecutor.⁴⁰ As a way of increasing public trust in the police and avoiding the current perception of “the police investigating the police”, the authorities should strengthen safeguards to ensure that investigations are truly impartial and seen as such by the public in being sufficiently transparent. Therefore, **GRECO recommends that the safeguards of the complaint mechanism be further reinforced so as to guarantee that investigations into complaints of police misconduct are impartial and seen as such by ensuring a sufficient level of transparency to the public.**

Reporting obligations and whistleblower protection

Reporting obligations

232. Law enforcement police members have an obligation to report suspected corruption offences, in accordance with Article 340 CC. In general, reporting such facts is primarily covered by CCP. Such reports are filed with the law enforcement authorities, i.e. prosecution office or police officer (Article 196 CCP). Within the Ministry of the Interior, the Control and Inspection Department is the responsible entity and records complaints pursuant to a special regulation, which lays down details of filing, verification, registration, notification of persons and processing personal data included in the complaint.

233. Failure to report amounts to a criminal offence. Under Article 340 CC, the punishment is to be imprisonment for up to three years on grounds of failing to report a corruption offence. This punishment may be combined with other penalties or protective measures in accordance with relevant provisions of CC.

Whistleblower protection

234. The general legal framework for whistleblowers also applies to law enforcement members, as described in the part on PTEFs (see para. 61-62). Conditions for the protection of persons against unjustified sanctions in employment relationships in connection with reporting of crime or other anti-social activity and the rights and obligations of natural persons and legal persons in reporting anti-social activity are regulated by the Whistleblower

⁴⁰ The Public Defender’s Extraordinary Report regarding facts indicating serious violations of fundamental rights and freedoms by actions taken by some bodies (August 2013).

Protection Act. This Act also regulates obligations of the State in the area of prevention of anti-social activity and anti-corruption education and training.

235. This Act defines serious anti-social activity as an unlawful act, in particular:
- damaging financial interests of European Communities under Article 261 to 263 CC, scheming in public procurement pursuant to Article 266 CC, some offences of public officials under chapter 8 of special part of CC or offences of corruption under chapter 8 of the third part of special part of CC;
 - criminal offence for which the Criminal code lays down a sentence of imprisonment with upper limit of such sentence exceeding three years; or
 - administrative offence for which a fine may be imposed with upper limit of at least EUR 30 000.

236. The said Act allows whistleblowers to remain anonymous to their employer in reporting serious anti-social activity. In order to obtain protection, a person reporting serious facts constituting a criminal offence must file a request for protection with the prosecutor. In cases where the reported circumstances constitute an administrative offence, the report must be made to the administrative authority competent to conduct the proceedings. A reward can also be awarded to the whistleblower up to 50 times the minimum wage.

237. However, as mentioned in paragraph 62, the effectiveness of the previous version of the Whistleblower Protection Act had generally been questioned by reason of a lack of trust in protection measures available to whistleblowers in practice. The amendments to the previous statute shifted the central role played previously by labour inspectors to a new dedicated independent public body, the Office of the Protection of Whistleblowers. This Office will, *inter alia*, review and suspend the effects of an employment-related action taken against a whistleblower if in connection with his/her report; be responsible for auditing the implementation of the Whistleblower Protection Act and organise awareness-raising activities on the Whistleblower Protection Act. The GET is of the view that these legislative changes may contribute to improved protection, although it is too soon to assess it, but a vital aspect is ensuring that protection measures are made fully operational.

238. The GET calls on the authorities to ensure that the protection offered in practice to whistleblowers from within the Police Force is operational, considering that, by the authorities' own admission, corruption in the law enforcement remains a highly latent phenomenon. Particular attention should therefore be paid to the way of rendering fully effective any protection laid down in the law. In practice, no instances of internal whistleblowing have been reported to the Control and Inspection Department, which is competent in the matter, in the past year. The GET considers that it could be worth exploring the possibility for whistleblowers from within the Police Force to report to an independent body. In any event, in order to encourage further reporting of corrupt practice within the Police Force and change negative perception about the effectiveness of protection measures, the GET is of the view that it is critical to train and raise awareness of all police members. This subject ought to be included in any practical guidance on ethical conduct in the Police Force. In view of the foregoing, **GRECO recommends (i) that the effectiveness of the protection of whistleblowers be improved in terms of the processing of such reports, in particular in respect of the independence and autonomy of the processing authority and (ii) that police members be trained and informed on a regular basis about whistleblowing protection measures.**

Enforcement procedure and sanctions

Disciplinary and other administrative proceedings

239. Decision to impose a disciplinary measure take into account the nature of unlawful act, circumstances in which it was committed, its consequences, the degree of culpability and the attitude of the police officer in performing his/her duties thus far. Imposing disciplinary measure for disciplinary offense does not exclude discharge of police officer from service employment for such action if, after disciplinary measure has been imposed, new facts were revealed justifying such discharge of police officer from service employment. Appeals against disciplinary measures are possible.

240. Disciplinary measures of police officers are defined in section 3, "Discipline and disciplinary authority" of Act No. 73/1998. Disciplinary measures are the following: (a) written reprimand; (b) reduction of salary of up to 15% for maximum of three months; (c) demotion by one rank for one year; (d) prohibition of performing activity; (e) forfeiture of a thing.

Misdemeanours, criminal proceedings and immunities

241. Law enforcement members do not enjoy any immunity or procedural privileges. In addition, specific offences apply to them that can only be committed by persons acting as public officials under the CC, specifically Article 326 (criminal offence of abuse of authority of public officials) and Article 327 (criminal offence of obstruction of task by public officials). No special criminal proceedings are provided for them.

Number of indicted persons under selected Articles of the Criminal Code

	2013	2014	2015	2016	2017
Article 326 – Abuse of authority	42	37	30	17	41
- men	39	37	30	16	39
- women	3	0	0	1	2
Article 327 – neglect of duty by a public official	1	6	2	2	3
- men	1	4	1	2	2
- women	0	2	1	0	1
Article 329 – Passive bribery	12	3	4	2	7
- men	12	3	3	2	7
- women	0	0	1	0	0
Article 333 – Active bribery	0	0	0	0	1
- men	0	0	0	0	1
- women	0	0	0	0	0
Article 336 – Trading in influence	0	0	1	0	0
- men	1	0	1	0	0
- women	0	0	0	0	0

VI. RECOMMENDATIONS AND FOLLOW-UP

242. In view of the findings of the present report, GRECO addresses the following recommendations to the Slovak Republic:

Regarding central governments (top executive functions)

- i. **that state secretaries be subject to an integrity check as part of recruitment (paragraph 36);**
- ii. **that the status of political advisers be clarified: (i) advisers, including those working in advisory boards which may influence political decision-making, should undergo an integrity check as part of recruitment and; (ii) the names of all advisers, their functions and remuneration linked to government tasks should be systematically published on governmental websites (paragraph 47);**
- iii. **that an operational corruption prevention action plan is adopted to cover the government, based on a risk assessment specifically targeting persons with top executive functions, and includes particular steps to mitigate risks identified in respect of them (paragraph 57);**
- iv. **(i) that a code of conduct for persons with top executive functions (ministers, state secretaries, political advisors and senior civil servants closely associated with decision-making) be adopted and made public in order to provide clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, ancillary activities, the handling of confidential information and post-employment restrictions), and (ii) that proper monitoring and enforcement of such a code be ensured (paragraph 68);**
- v. **that (i) briefing and training on integrity issues be systematically organised and administered for persons with top executive functions upon taking up their positions, and regularly thereafter, and (ii) confidential counselling on ethical issues always be accessible to them (paragraph 75);**
- vi. **that rules be laid down to govern (i) contacts between persons with top executive functions and lobbyists/third parties that seek to influence the public decision-making process and (ii) the disclosure of such contacts and the subject-matters discussed (paragraph 89);**
- vii. **that a requirement of ad hoc disclosure be introduced in respect of ministers, state secretaries and all advisers, regardless of their status, in situations of conflicts between private interests and official functions, as they occur (paragraph 103);**
- viii. **establishing more stringent rules on gifts and other benefits for persons entrusted with top executive functions in the form of appropriate practical guidance, the obligation of reporting them and informing the public (paragraph 120);**

- ix. that (i) post-employment restrictions be broadened in respect of ministers and state secretaries and laid down for advisers and senior civil servants involved in top executive functions and (ii) rules on persons with top executive functions expressly prevent lobbying activities towards the government for a lapse of time after they leave government (paragraph 128);
- x. that the system of asset declarations for persons with top executive functions be strengthened (i) by lowering the thresholds above which assets need be declared and by making public more information contained in the declarations of assets; (ii) by ensuring that adequate verifications are carried out, including through appropriate resources and auditing capabilities of the control body, and sanctions applied (paragraph 142);

Regarding law enforcement agencies

- xi. that the fight against corruption within the Police Force be strengthened by (i) establishing an operational anti-corruption strategy on the basis of risk assessments identifying risk areas and measures to mitigate such risks and (ii) determining concrete measures for its implementation (paragraph 168);
- xii. that (i) the Code of Ethics is updated and covers in detail all relevant integrity matters (such as conflict of interest, gifts, contacts with third parties, outside activities, the handling of confidential information), supplemented with a manual illustrating all issues and risk areas with concrete examples; (ii) all awareness and training to police members be based on this revised Code of Ethics and manual and (iii) the Code of Ethics be made known to the public (paragraph 174);
- xiii. that a risk management mechanism be established in order to identify corruption risks and emerging trends at regular intervals (paragraph 176);
- xiv. that (i) training of police officers on integrity matters applicable to the police be strengthened and better connected to their professional development; (ii) specialised training for investigators dealing with corruption cases be enhanced; (iii) that a system of trained persons of trust be appointed in order to provide confidential counselling on ethical and integrity matters to all police members (paragraph 185);
- xv. that measures be taken to increase the representation of women in the Police Force, including in more senior positions (paragraph 189);
- xvi. that the security check system be strengthened, including by ensuring that integrity checks take place at regular intervals in the careers of police members, depending on their exposure to corruption risks and the required security levels (paragraph 194);
- xvii. that guidance should be developed regarding standards for police officials regarding additional activities and that effective procedures should be in place to control any additional activity taken up by them (paragraph 210);

- xviii. **that rules be adopted to ensure transparency and limit the risks of conflicts of interest when police officers leave the Police Force to work in other sectors (paragraph 216);**
 - xix. **that the control system of declarations of assets of police officers be strengthened, including by ensuring that control is carried out outside the chain of command and that statistics on sanctions are kept (paragraph 223);**
 - xx. **that the safeguards of the complaint mechanism be further reinforced so as to guarantee that investigations into complaints of police misconduct are impartial and seen as such by ensuring a sufficient level of transparency to the public (paragraph 231);**
 - xxi. **(i) that the effectiveness of the protection of whistleblowers be improved in terms of the processing of such reports, in particular in respect of the independence and autonomy of the processing authority and (ii) that police members be trained and informed on a regular basis about whistleblowing protection measures (paragraph 238).**
243. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Slovak Republic to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2020. The measures will be assessed by GRECO through its specific compliance procedure.
244. GRECO invites the authorities of the Slovak Republic to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe’s anti-corruption instruments. GRECO’s monitoring comprises an “evaluation procedure” which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment (“compliance procedure”) which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.
