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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

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

### COMPLIANCE REPORT

### CZECH REPUBLIC

Adopted by GRECO at its 80<sup>th</sup> Plenary Meeting  
(Strasbourg, 18-22 June 2018)

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## **I. INTRODUCTION**

1. The Compliance Report assesses the measures taken by the authorities of the Czech Republic to implement the recommendations issued in the Fourth Round Evaluation Report on the Czech Republic which was adopted at GRECO's 72th Plenary Meeting (1 July 2016) and made public on 2 November 2016, following authorisation by the Czech Republic ([GrecoEval4Rep\(2016\)4](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of the Czech Republic submitted a Situation Report on measures taken to implement the recommendations. This report was received on 14 February 2018 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Turkey (PA) and the Slovak Republic (JUD) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were M. Guray GUCLU, on behalf of Turkey and Ms Alexandra KAPIŠOVSKÁ, on behalf of the Slovak Republic. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

## **II. ANALYSIS**

5. GRECO addressed 14 recommendations to the Czech Republic in its Evaluation Report. Compliance with these recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

#### **Recommendation i.**

6. *GRECO recommended (i) ensuring timely publication of records of parliamentary committee meetings and enhancing the transparency of the work conducted in sub-committee meetings; (ii) introducing rules for members of parliament on how to interact with lobbyists and other third parties seeking to influence the legislative process and making such interactions more transparent.*
7. As for the first part of the recommendation, the authorities recall the rules and deadlines currently in place in both chambers and they indicate that the newly elected Chamber of Deputies – following the elections of October 2017 – and the Senate were informed by the Government about the present recommendation and GRECO's work and the timely publication is indeed considered an important aspect of enhanced transparency of parliamentary work.
8. As regards the second part of the recommendation, the previous government had initiated consultations about a preliminary draft act on lobbying and the new Government appointed in December 2017 is pursuing the work, which is now entrusted with the Minister of Justice. The latter is expected to present to the Government proposals for:

a) the setting up of a register of lobbyists (which would include obligations also for the lobbied persons to report about contacts they may have);

b) the development of "legislative footprint" arrangements which would encompass the obligation for all high ranking public officials (members of Government, MPs, deputy ministers, members of the ministers' cabinet, assistants of MPs and Government members), to keep a rolling list of all subjects who cooperated with them in the creation or amending of relevant legislation (in relation with governmental work, this would also refer to contacts held in relation to concept papers and strategic or implementing documents). The information gathered in the list would then be made publicly available in the electronic systems called "eCollection" and "eLegislation.

c) the intended legislation, which would cover lobbying in general and not just in relation to parliamentary activities, would also establish a register of gifts, to be incorporated into the register on conflict of interests and made applicable to all obliged officials, thus including MPs; the threshold for declaring gifts would be lowered from 10 000 CZK (approx. 390 euros) to 5 000 CZK (approx. 195 euros); contrary to system currently in place, such gifts would all be individually included in the public register, and the cumulative threshold of 100 000 CZK would not apply anymore.

9. GRECO takes note of the above. For the time being, no follow-up action has been taken in respect of the first part of the recommendation. As to the second part, GRECO notes with interest that there have been plans to introduce rules on lobbying which could also contain, to some extent, obligations for MPs themselves as required by the recommendation. Of particular relevance are the proposals made in relation to a legislative footprint system but GRECO recalls that any plans would also need to address relations with other third parties; this subject remains particularly important in the context of the Czech Republic (see paragraph 80 and footnote 2). GRECO will need to examine the situation in greater detail once the process is more advanced and when concrete proposals – formalised and endorsed at the appropriate government level become available. It also recalls that the Government which resigned in January 2018 has remained in place for a transitional period and talks have been going on for several months to form a new government. Moreover, the policy- and decision-making power of this temporary government appears to be disputed. For the time being, GRECO considers that this second part of the recommendation has not been implemented, even partly.
10. GRECO concludes that recommendation i has not been implemented.

#### **Recommendation ii.**

11. *GRECO recommended (i) that a code of conduct be adopted for members of parliament, made easily accessible to the public, and accompanied by explanatory notes and/or practical guidance, including on conflicts of interest and related matters (e.g. gifts and other advantages, incompatibilities, additional activities and financial interests, post-employment situations, contacts with third parties such as lobbyists, declaration requirements, etc.); (ii) that the code of conduct be complemented by practical measures for their implementation, such as dedicated training, confidential counselling and awareness-raising.*
12. The authorities indicate in respect of the first part of the recommendation that no work had been initiated in this area during the previous legislature and that the newly elected Chamber of Deputies and the Senate have agreed to develop a coordinated approach in order to implement this recommendation. The first stage will consist of an inventory of desirable rules of conduct that need to be introduced

to complement the Act on conflicts of interest (as amended) and the intended Act on lobbying. In February 2018, a working group was established by the Chamber of Deputies and after a series of meetings, a consensus was reached about the necessity to elaborate a Code and conclusions have been issued which shall now be implemented in a legislative proposal by the President of the Chamber. The authorities also recall that every new MP is bound to take an oath (which includes certain general, moral requirements) and that some political parties already have a code of ethics which applies also in relation to their MPs' activities.

13. The authorities also provide a list of activities carried out at the start of the new legislature which pursue the objectives of the second part of the recommendation: e.g. the Chancellery of the Chamber of Deputies hosted an information seminar for newly elected Deputies, where practical instructions related to the topic of conflicts of interest, as well as on connected topics, were presented. The Deputies were also informed of the possibility to address with questions the appropriate expert department of the Chamber of Deputies (Parliamentary Institute). Furthermore, an offer of a more detailed introductory seminar, not only dealing with this topic, was made by the Parliamentary Institute to all political fractions. The Parliamentary Institute also provides similar services to Senators.
14. GRECO takes note of the absence of any tangible progress as regards the adoption of rules of conduct for parliamentarians (first part of the recommendation), even though some preliminary work was conducted in the Chamber of Deputies in this respect. GRECO appreciates the assurances given that awareness-raising initiatives and the possibilities to seek clarification are not completely absent at the moment, but any efforts in this field will have to be assessed in relation to the introduction of the recommended code of conduct and the specific implementation support initiatives which will need to be taken subsequently. For the time being, GRECO cannot conclude that this recommendation has been implemented, even partly. It also recalls that ideally a code of conduct should be a living document which provides for practical guidance and examples of problematic situations and of expected reactions, which can therefore be updated easily as the need arises, contrary to a piece of legislation.
15. GRECO concludes that recommendation ii has not been implemented.

### **Recommendation iii.**

16. *GRECO recommended that enforceable rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public; they should, in particular, determine what kinds of gifts and other advantages may be acceptable and define what conduct is expected of members of parliament who are given or offered such advantages.*
17. The authorities indicate that there have been no changes in legislation in comparison with the situation described in the Evaluation Report. Certain improvements are expected in connection with the drafting of the Act on lobbying – see recommendation i and paragraph 8 above with respect to the introduction of a public register for gifts received by MPs (and other officials) in excess of approx. 195 euros.
18. GRECO appreciates that in the context of the legislative work on lobbying rules, the Ministry of Justice is considering the introduction of a duty for MPs (and other officials) to declare gifts but for the time being, there have been no tangible developments, and the decision-making capacity of the government is a source of uncertainties, as is was pointed out in respect of recommendation i. It is important for the Czech Republic to develop a robust framework on gifts and other benefits in

line with the various elements of the present recommendation, and GRECO notes that several controversies have been documented in the Czech and international media in recent years (see paragraph 80 and footnote 2).

19. GRECO concludes that recommendation iii has not been implemented.

**Recommendation iv.**

20. *GRECO recommended (i) requiring members of parliament to also submit declarations of activities, declarations of assets and declarations of income, gifts and liabilities at the beginning of their mandate, introducing an electronic declaration system and making declarations more easily accessible on the internet; (ii) making it clear that declarations must also include in-kind benefits provided to members of parliament; and (iii) considering widening the scope of the declarations to also include information on spouses and dependent family members (it being understood that such information would not necessarily need to be made public).*
21. The authorities provide an update on the amendments which were at the drafting stage at the time of the on-site visit. The obligation of an MP to present a declaration of activities, declaration of property and declaration of income, gifts and liabilities also at the beginning of their mandate, was introduced by the Act No. 14/2017 Coll., dated 29 November 2016 amending Act No. 159/2006 Coll., on Conflicts of Interest – thus reflecting the situation on the day preceding the date of beginning the performance of office (art. 12 (1)). In the case of Deputies, they are taken up in the register of subjected officials without delay on the day on which their mandate begins (or within 15 days at the latest), by the Chancellery of the Chamber of Deputies (art. 14a (1) and (2)). The register of declarations, which is managed by the Ministry of Justice, has been fully computerised in the form of an information system of the public administration (art. 13(1)) and declarations made by MPs are available online for free and without the need for any previous request to be made (art. 13(3)). The register, with all relevant information and forms for the general public to report to the Ministry of Justice any anomaly, is available at <http://cro.justice.cz/>.
22. As regards the second part of the recommendation, the Manual on Presenting Declarations by the Public Officials According to the Act on Conflict of Interests (art. 43) was amended after the above legal changes and it now states that: „As other material benefits can be considered any benefit that directly or indirectly provides the public official with profit (e. g. material benefit in the form of tickets to cultural or sports event, stay tours etc.)” [translation provided by the Czech authorities]. Even though the Manual is not a binding regulation, it represents a legal interpretation supported by the Ministry of Justice as the (new) supervisory body and it is therefore widely used in practice by public officials.
23. As for the third part of the recommendation, the Czech authorities point out that the extension of declarations to information on the MPs’ spouses and children is currently being considered by the Ministry of Justice, in connection with a new agenda on conflicts of interest which was also entrusted to that Ministry. The idea is to analyse the benefits of such further changes on the basis of experience accumulated concerning the first years of practice with the new on-line declaration system, and to include comparisons with other (selected) GRECO countries. This project is scheduled for the period 2019-2021. The authorities intend to report back to GRECO on this subject matter.
24. GRECO is pleased to see that clear-cut steps have been taken to address the first two elements of the recommendation. GRECO is looking forward to the completion of the consultations and decision-making process with a documented final decision

– hopefully with a positive outcome – concerning a possible extension of declaratory obligations to information concerning spouses and children of MPs. GRECO is also bearing in mind the current political context and the uncertainties concerning the current (temporary) government (see recommendation i).

25. GRECO concludes that recommendation iv has been partly implemented.

**Recommendation v.**

26. *GRECO recommended significantly strengthening the supervision and enforcement of the various declaration requirements on members of parliament under the Act on Conflicts of Interest, notably by giving an independent monitoring mechanism the clear mandate, powers and adequate resources to verify in depth the declarations submitted, to investigate irregularities and to initiate proceedings and impose effective, proportionate and dissuasive sanctions if the rules are violated.*

27. The authorities refer to the fact that the register of declarations is now fully administered by the Ministry of Justice which is also the new registration and supervisory authority for declarations of MPs. In its control function, the Ministry is entitled to cross-check the content of declarations with the information from other information systems which are under the Ministry's responsibility, including the information system for aliens; the Land Registry; the Central Register of Road Vehicles; the basic register of legal persons, natural persons and public authorities; the business register; and the trade register.

28. **[para numbering added]** In case of suspicions of incomplete or false information, the Ministry is also entitled to receive information from other sources (art. 13(6) and (7)) of Act No. 159/2006 Coll., on Conflicts of Interest). The Ministry can, ex officio, carry out checks at any time and any person can file a case if s/he suspects that a declaration does not reflect the reality of an MP's situation<sup>1</sup>. In the light of the findings of a preliminary inquiry, the Ministry can then decide that a suspicion was ungrounded or that on the contrary, it warrants further verifications, in which case the file is forwarded with all necessary supporting documents to the body responsible for dealing with offenses in the area of conflicts of interest i.e. the Office for Personal Data Protection (in case restricted information would be published in the register) or the competent municipal administrative authority (on the grounds of territorial jurisdiction) depending on the case. If the Ministry believes that a criminal offence was committed, it shall refer the case with all relevant information to the prosecutor or police authorities in accordance with § 8 of the Criminal Procedure Code. The Czech authorities confirm that the main purpose of a criminal action would be the prosecution of a possible bribery offence since for the time being, there are no criminal offences/sanctions in relation to the declaratory obligations (e.g. false declarations) or to a dubious patrimonial situation (e.g. illicit enrichment).

29. Formal declaratory requirements are enforceable through a mechanism of administrative fines of up to CZK 50 000 CZK (approximately EUR 1850) applicable in case where an MP has not made a declaration, or has made a declaration with obviously incomplete or false information or if the declaration is made late (art. 23(1)(d, e, f) of the Act). Such fines are imposed by the municipal authorities after examining the case transferred by the Ministry of Justice.

30. Moreover, if the Ministry of Justice concludes that there is a material disproportion between the property values acquired by a public official during the performance of his/her office and income, the matter shall be referred to the Financial

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<sup>1</sup> As indicated earlier, the register, relevant information and a form for a public notification are available at <https://cro.justice.cz/>

Administration for further proceedings pursuant to Sections 38x et seq. of the Act No. 586/1992 Coll., on Income Taxes, as amended. The additional information submitted by the authorities suggests that the tax authorities would then look at a possible situation of undeclared income and wealth (if the discrepancy between income and assets exceeds CZK 5 000 000 (approximately EUR 185 000)). It can require the official / declarant to file a special asset declaration should there be a presumption that the actual patrimonial situation exceeds a value of CZK 10 000 000 CZK (approximately EUR 370 000 €). A penalty can be imposed in addition to the taxable estimated asset situation (50% of the taxes to be paid, or 100% in case of obstruction by the tax payer/official).

31. GRECO takes note of the above. Improvements have been made since the time of the on-site visit, when the declarations of MPs were checked by the Mandate and immunity Committee of the chamber of Parliament of which the MP concerned is a member. This is now done by the Ministry of Justice, which has explicit powers to obtain some information to carry out preliminary checks. A variety of bodies have now clear competence to deal with subsequent in-depth checks and a gradation of controls and sanctions thus appears at present to be in place, which has the potential to make declaratory obligations more effective. The Ministry of Justice – which is a body independent from Parliament – plays a leading role for the initiation of verifications and detecting irregularities or dubious patrimonial variations and in their latest comments, the authorities provide assurances that the political impartiality of this new mechanism has not been questioned.
32. In any event, GRECO will need to re-assess the situation once statistical and other information becomes available on the functioning in practice of the supervisory arrangements in relation to MPs, on the final staff and other resources allocated to the control function in the Ministry, on the working methods in place relative to the volume of declarations handled and processed, documented with examples of successes and failures in concrete cases etc. GRECO is also looking forward to the introduction of clear improvements as regards the system of sanctions which has remained unchanged since the on-site visit and entails at worst a fine of up to EUR 1850 and a fiscal penalty calculated on the basis of the value of undeclared wealth.
33. GRECO concludes that recommendation v has been partly implemented.

#### *Corruption prevention in respect of judges*

##### **Recommendation vi.**

34. *GRECO recommended (i) regulating in more detail the recruitment and promotion of judges and court presidents so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; and (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*
35. The authorities indicate that the Ministry of Justice has issued a) Instruction No. 7/2017 of 23 November 2017 (ref. No. 1002/2015-LO-SP) on the procedure for selecting candidates for the office of judges and on the procedure for submitting applications for the appointment of judges, and b) regulation No. 382/2017 Coll., on the selection, recruitment and preparatory judicial service of judicial trainees and special judicial examination, which amend and improve not only the selection of candidates for the office of judge, but also the selection of judicial trainees.
36. The authorities take the view that as a result of the above, the selection process is now based on clear criteria and the selection of judges has been unified. The selection procedure is based on written and oral tests and a verification of personal

qualifications. The written test is assessed by two independent evaluators and the verification of personal qualifications is done by specialised psychological centers approved by the Ministry of Justice. At the final stage, judicial candidates are selected by a committee, appointed by the Minister of Justice and composed of five members who are selected among the judges, the experts employed by the Ministry of Justice and other experts in the area of legal theory and practice. The majority of members shall be judges.

37. Moreover, the authorities take the view that clear and explicit rules are now in place regarding the recruitment of judges for the Supreme Court and Supreme Administrative Court, as well as regarding the temporary assignments to these highest courts. The Supreme Administrative Court has had those rules in place since 2012 and the Supreme Court adopted such rules on 24 May 2017. Both sets of rules were adopted by the presidents of both courts after plenary discussions among the respective judges, and they are publicly available on the respective websites of the courts.
38. The judicial review of this process is not explicitly excluded; however no case in this matter was ever examined by a court. The Ministry of Justice is currently preparing a new draft of the Act on the Courts where the provisions on promotion shall be included in detail.
39. GRECO takes note of the above information. As regards the general initial recruitment to judicial functions, the system was amended in November 2017 and the necessary improvements have been made. It would also appear that the same can be said of appointments to the Supreme Court and to the Supreme Administrative Court, including temporary assignments to these. Promotions have not yet been addressed but the Ministry of Justice is working on this in the context of a revision of the Act on the Courts. The first part of the recommendation can therefore not be considered as fully implemented and GRECO will need to re-examine the situation as a whole and the consistency of arrangements once these reforms have been finalised. Following further clarification requested by the rapporteurs, it was indicated that the Supreme Court has expressed misgivings about the fact that the improvements of November 2017 are based on a mere ministerial instruction. GRECO can only concur with this since a legislative basis would clearly offer better guarantees of stability for the future whilst limiting possibilities of political interference in judicial careers. As regards the second part of the recommendation, the Czech Republic has not engaged any work in this respect, nor provided new evidence demonstrating that decisions on recruitments and promotions of judges can be challenged in court despite the absence of explicit rules to that effect. Explicit and adequate legislation is clearly needed to fill those gaps.
40. GRECO concludes that recommendation vi has been partly implemented.

#### **Recommendation vii.**

41. *GRECO recommended (i) that a code of professional conduct for all judges – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues (e.g. on gifts, secondary activities, third party contacts/confidentiality, etc.) – be developed, communicated effectively to all judges and made easily accessible to the public; (ii) that it be complemented by practical measures for its implementation, including confidential counselling and dedicated training for both professional and lay judges.*
42. The authorities report that a code of professional conduct for all judges has not been finalised as yet. The discussion is on-going and the Ministry of Justice (MoJ) is



considering the various possible ways of issuing such a code. In the context of a project funded by EEA grant (which is addressing the implementation of GRECO's recommendations regarding judges), the MoJ is planning a series of measures such as organising round tables and working commissions involving experts and judges and the gathering of information for a comparative study which would assist improvements and the unification of codes of conduct for judges and prosecutors. The results of the study will be presented in a brochure for judges and prosecutors and at an international conference at the end of 2019. Several workshops will also be organised in cooperation with the Judicial Academy for judges, prosecutors and other judicial employees to acquaint them with the brochure and to enable a practical discussion on best practices and real examples.

43. The MoJ is also preparing a completely new version of the internet information portal "justice.cz", which is expected to become operational by the end of 2018 and will include a dedicated section for judges (also accessible to the public) with relevant international and domestic documents on judicial ethics, conflict of interest and an overview of case-law on disciplinary matters. This is expected to be a major innovation.
44. The authorities also provide a list of on-going or punctual initiatives on integrity and ethics for judges, prosecutors and trainees, carried out by the Union of Judges, the Judicial Academy (workshops were held in September-October 2017). The Supreme Court has adopted its own ethical code in September 2016 and established an Ethical commission to advise the president of the Supreme Court. Similar provisions can be found in the rules of the Supreme Administrative Court (the authorities provide large excerpts of these).
45. GRECO takes note of the above information and welcomes the ambitious plans announced for the strengthening of rules of conduct and awareness-raising measures. For the time being, no tangible results have been achieved as regards the drafting of a code of conduct along the lines recommended by GRECO (first part of the recommendation). Moreover, it remains unclear to what extent the codes adopted by the two highest courts address all specific subject-matters pinpointed by GRECO. In their latest comments, the authorities refer to article 7 of the Supreme Court's Code, which deals in broad terms with such issues as gifts, improper influence and relations, and behaviour in private life (this seems to concern the Court's employees) and GRECO will need to re-examine the situation as a whole when detailed information becomes available. Some awareness-raising actions have already been taken but GRECO will have to examine the overall situation when a code is adopted (first part of the recommendation) and dedicated measures are put in place to support specifically its implementation (second part of the recommendation). Overall, GRECO cannot conclude that this recommendation has been implemented even partly.
46. GRECO concludes that recommendation vii has not been implemented.

#### **Recommendation viii.**

47. *GRECO recommended regulating more closely the exercise by judges of secondary activities, including by introducing a reporting requirement and, as appropriate, monitoring of compliance with the existing restrictions on the exercise of such activities.*
48. The authorities point out that according to the government's work plan for the years 2019-2021, the Ministry of Justice is to present by mid-2019 a package of measures including a series of amendments to the Act on Courts and Judges. It is intended to provide for stricter rules on the secondary activities of judges

(encompassing inter alia a duty to report to the President of the Court any accessory activity carried out, the amount of time spent on it, and any possible income derived thereof. In the immediate, with the amendments made last year to the Act on Conflict of Interest (republished as Act n°14/2017), which entered into force on 1 September 2017, the obligations of a judge are the same as those of an MP, which have been discussed earlier. Every judge is now required to file every year a declaration of activities, a declaration of property and a declaration of income, gifts and liabilities. As regards secondary activities, a judge cannot hold any other paid position or engage in any other gainful activity other than certain temporary assignments to the Ministry of Justice or to the Judicial Academy) with the exception of the administration of his/her own property and of scientific, pedagogical, literary, journalistic and artistic activities, or activities in the advisory bodies of the Ministry, the Government and the bodies of the Chambers of Parliament (provided such activities do not undermine the dignity of a judicial function or jeopardize confidence in independence; impartiality of the judiciary). Other (unremunerated) activities need at present to be declared, e.g. membership in a company or broadcasting business or publishing of the periodical press. A judge is obliged to declare his income and gifts if their amount exceeds 10,000 CZK (approx. 390 EUR) and if their amalgamated value per year exceeds CZK 100,000 (approx. 3940 EUR). This last threshold also applies for the declaration of liabilities.

49. In the case of judges, declarations are verified by the Supreme Court, similarly to the procedure used by the Ministry of Justice for other public officials. Unlike the latter, however, the judges are not liable for breaches of the declaratory and other obligations imposed by the law on conflicts of interest: only a motion to initiate disciplinary proceedings on the disciplinary liability of the judge concerned can be filed under Act No. 7/2002 Coll., on proceedings in matters related to judges, prosecutors and judicial executors, as amended.
50. GRECO takes note of the plans to be implemented by mid-2019 concerning the present recommendation and the introduction of stricter requirements. In the immediate, judges are required since 2017 to file a declaration in the same way as MPs and these can be verified as well. GRECO welcomes these first steps towards greater transparency and it is looking forward to the adoption of stricter limits and a system of authorisation (as recommended) in 2019.
51. GRECO concludes that recommendation viii has been partly implemented.

#### **Recommendation ix.**

52. *GRECO recommended introducing the possibility for judges to challenge disciplinary decisions including for dismissal before a court.*
53. The authorities indicate that the Ministry of Justice is currently working on a legislative proposal which is expected to be presented to the government in June 2019 as part of a legal package which would possibly include a special Act on disciplinary proceedings for judges and prosecutors and a new Act on courts and judges. Disciplinary proceedings are dealt with by the Disciplinary Court (the Supreme Administrative Court is the Disciplinary Court, which acts and decides in special chambers). The Ministry of Justice plans to introduce a two-stage system with appeal chambers which would make it possible to appeal disciplinary decisions. The composition of the disciplinary chambers is also currently being discussed.
54. GRECO takes note of the information on legislative proposals to be presented to the Government in June 2019, concerning the introduction of appeal possibilities for judges against disciplinary decisions. For the time being, these initiatives are at a

very early stage and GRECO, therefore, cannot conclude that his recommendation has been implemented, even partly.

55. GRECO concludes that recommendation ix has not been implemented.

*Corruption prevention in respect of prosecutors*

**Recommendation x.**

56. *GRECO recommended (i) regulating in more detail the recruitment and promotion of public prosecutors so as to provide for uniform, transparent procedures and to ensure that decisions are based on precise, objective and uniform criteria, notably merit; (ii) ensuring that any decisions in those procedures are reasoned and can be appealed to a court.*
57. The authorities recall that the conditions for the appointment of public prosecutors are currently regulated by Act No. 283/1993 Coll., on the Public Prosecutor's Office and that there is no specific piece of legislation dealing with the recruitment procedure for candidates. The Supreme Public Prosecutor's Office, in agreement with the Ministry of Justice, prepared a coordination agreement on the selection and advancement of the prosecutors' career procedures. On 27 November 2017, a draft was finalised and sent to the Ministry of Justice for comments. It was subsequently agreed upon by the Ministry and SPPO and approved by the Minister of Justice (the Government is not involved). The representatives of the prosecution services are expected to sign it by 25 June 2018. The draft reportedly provides for clear rules on 1. Appointments and selection plans concerning new prosecutors, 2. transfers including to the higher prosecution offices; 3. conditions and procedures for appointments to leading positions; 4. appointments to other positions in the prosecution services. The rules would also provide for the possibility to appeal decisions in court.
58. GRECO considers that first steps have been taken to implement the above recommendation by means of a preliminary document which is being prepared by the Supreme Public Prosecutor's Office and which appears to provide for specific rules concerning recruitments and promotions, as well as appeal possibilities in case a prosecutor would disagree with a decision. GRECO is looking forward to the completion of this work and the entering into force of these new rules, and also the subsequent consecration in legislation for the reasons already mentioned earlier in relation to judges (stability of the rules and better safeguards against political interference – see paragraph 39). GRECO shall finalise its assessment only when a detailed analysis of the adopted rules can be made.
59. GRECO concludes that recommendation x has been partly implemented

**Recommendation xi.**

60. *GRECO recommended reforming the procedures for the appointment and recall of the Supreme Public Prosecutor and other chief public prosecutors, in particular by ensuring (i) that any decisions in those procedures are reasoned, based on clear and objective criteria and can be appealed to a court; (ii) that appointment decisions are based on mandatory, transparent selection procedures and; (iii) that recall is possible only in the context of disciplinary proceedings.*
61. The authorities indicate that the Ministry of Justice is currently preparing a new Act on Public Prosecution, which is to address this recommendation. To some extent, the measures planned in response to the previous recommendation are also relevant here (reasoning of decisions, clear and objective criteria).

62. GRECO notes with interest that a new Act on Public Prosecution is in the drafting stage and that this recommendation would also be partly addressed through the measures about to be agreed between the Minister of Justice and the Prosecution services. But for the time being, the process appears to be at such an early stage, and the information provided is not specific enough that GRECO cannot conclude that this recommendation has been implemented, even partly.
63. GRECO concludes that recommendation xi has not been implemented.

**Recommendation xii.**

64. *GRECO recommended (i) that a code of professional conduct for all public prosecutors – accompanied by explanatory comments and/or practical examples, including guidance on conflicts of interest and related issues (e.g. on gifts, secondary activities, third party contacts/confidentiality, etc.) – be developed, communicated effectively to all public prosecutors and made easily accessible to the public; (ii) that it be complemented by practical measures for its implementation, including confidential counselling and dedicated training.*
65. The authorities indicate that the Act No. 283/1993 Coll., on the Public Prosecutor's Office, as amended, does not explicitly provide for the possibility to issue a binding Code of Ethics for all public prosecutors. As it was not possible to expect such changes in the foreseeable future in order to fulfil the abovementioned recommendation, the Supreme Public Prosecutor's Office, based on a formal agreement with the Ministry of Justice, proceeded with the elaboration of such a draft code. The use of this route was reportedly accepted by the prosecutors. This would be a common work of all head public prosecutors with personnel competence and as such would be binding on their subordinate prosecutors. A first draft of the Code of Ethics was discussed at a working group in the framework of a nationwide meeting of heads of public prosecutors on 17 and 18 October 2017, and a second version is being prepared together with a commentary of the future code. Once the draft and its commentary are ready, the public prosecutors will be invited to comment on these.
66. Since the trainings of the Judicial Academy concern both judges and prosecutors, the information on educational activities provided under recommendation vii is also pertinent here.
67. GRECO is pleased to learn that a code of conduct for public prosecutors is being drafted. The first part of the recommendation has thus been partly implemented and GRECO will need to base its final assessment on a full version of the text adopted. As for the second part of the recommendation, the situation will need to be assessed once specific implementing measures (confidential counselling, dedicated training) are actually adopted and effective.
68. GRECO concludes that recommendation xii has been partly implemented.

**Recommendation xiii.**

69. *GRECO recommended regulating more closely the exercise by public prosecutors of secondary activities, including by introducing a reporting requirement and, as appropriate, monitoring compliance with the existing restrictions on the exercise of such activities.*

70. The authorities take the view that this requirement is met by Act No. 159/2006 Coll., on Conflict of Interests, as amended last and with effect as from on 1 September 2017, according to which public prosecutors are obliged to file a series of declarations under this Act, including on secondary activities. The situation of prosecutors is similar to that of judges described under recommendation viii. The main difference is that declarations in the case of prosecutors are reviewed by the Ministry of Justice instead of the Supreme Court. As indicated under recommendation viii, it is planned to introduce a series of stricter rules in 2019.
71. GRECO takes note of the above first steps taken by the Czech Republic regarding declaratory obligations in respect of accessory activities and the control of such declarations. As discussed under recommendation viii, stricter rules are planned in 2019.
72. GRECO concludes that recommendation xiii has been partly implemented.

#### **Recommendation xiv.**

73. *GRECO recommended introducing the possibility for public prosecutors to challenge disciplinary decisions including dismissal before a court.*
74. The authorities point out that the Ministry of Justice (MoJ) is currently working on a legislative proposal and according to the plans, it would be presented to the government in June 2019 as part of a package of reforms concerning the courts, judges and prosecutors (see recommendation ix). Disciplinary proceedings are dealt with by the Disciplinary Court (a function carried out by the Supreme Administrative Court sitting in special chambers). As it was pointed out under recommendation ix, the MoJ intends to introduce appeal chambers and to provide for the possibility of challenging any disciplinary decision of the chambers. The composition of those chambers is currently being discussed.
75. GRECO is pleased to see that work appears to be underway to implement the present recommendation and that it is planned to provide notably for appeal possibilities against disciplinary decisions, as recommended. GRECO will need to examine in detail the reform once concrete proposals are available and endorsed/approved at the appropriate level. For the time being, the process appears to be at such an early stage that GRECO cannot consider that this recommendation has been implemented, even partly.
76. GRECO concludes that recommendation xiv has not been implemented.

### **III. CONCLUSIONS**

77. **In view of the foregoing, GRECO concludes that the Czech Republic has implemented satisfactorily or dealt with in a satisfactory manner none of the fourteen recommendations contained in the Fourth Round Evaluation Report.** Seven recommendations have been partly implemented and the remaining seven recommendations have not been implemented.
78. More specifically, recommendations iv, v, vi, viii, x, xii and xiii have been partly implemented and recommendations i, ii, iii, vii, ix, xi, and xiv have not been implemented.
79. With respect to members of parliament, the process of implementation of the five first recommendations appears to be very slow. The main achievement is the modernisation of the system for the declaration of interests, income and assets, and the strengthening of the supervision in that area, which was handed over to

the Ministry of Justice. GRECO will need to re-assess the situation (especially from the perspective of independence, working methods and effectiveness of supervision) when more information becomes available. Although the importance of increasing the transparency of the legislative process, no additional measures have been taken as yet on this issue concerning parliamentary committees and sub-committees (especially the timely publication of records). Some work was initiated by a previous government to regulate lobbying before it resigned in the beginning of 2018. Likewise, the drafting of a code of conduct for parliamentarians is still at the stage of preliminary consultations and this has not led to tangible results up until now. The Czech Republic will also need to ensure that a robust system is effectively adopted, as intended, to regulate the way MPs engage in relations with lobbyists and other third parties.

80. GRECO recalls that in the Czech Republic, there is a strong negative perception of politicians and political parties by the public. Leading elected officials have been involved in criminal proceedings or recurring controversies because of integrity issues until recently<sup>2</sup>. It is crucial for the Czech Republic to take determined action to instil a culture of ethical conduct and integrity among the political class and to establish trust in elected representatives.
81. As far as judges and prosecutors are concerned, some improvements have been made on the recruitment and promotion of judges by instructions and regulations adopted in 2017 by the Ministry of Justice, and the transparency of accessory activities was increased the same year by extending to judges and prosecutors the declaratory obligations applicable to MPs and other officials. But in many other respects, the pace of reforms is disappointing – almost two years after the adoption of the Evaluation report. This can be explained by the broad range of on-going consultations which have been prompted by the ambitious plans to adopt a legal package concerning the courts, judges and prosecutors by mid- 2019. Likewise, broad consultations are planned to collect foreign experience and comparative data on integrity rules in the judiciary: but no tangible progress was achieved so far concerning the adoption of a code of conduct for all judges. As regards prosecutors, work is more advanced but such a code is still in the drafting stage. Where specific codes of conduct have been adopted (by the two highest courts), their content does not appear to reflect GRECO's expectations as regards such specific subject matters as reactions to gifts, third party relations etc. In relation to both these professional categories, no measure was taken to regulate more strictly secondary activities and to provide for explicit possibilities to challenge disciplinary decisions before a court, including dismissals.
82. More generally, GRECO will need to assess any efforts made in the area of awareness raising and training concerning the intended integrity standards for parliamentarians, judges and prosecutors, once the relevant rules (codes) of conduct are actually adopted and subsequently promoted.
83. In view of the above, GRECO concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of delegation of the Czech Republic to provide a report on the progress in

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<sup>2</sup> See for instance:

<http://www.radio.cz/en/section/marketplace/why-the-czech-republic-scored-worse-in-corruption-index>  
<http://praguemonitor.com/2016/07/20/ex-czech-pm-his-wife-charged-bribery> and  
<http://praguemonitor.com/2017/09/18/mfd-czechs-implicated-azeri-money-laundering>  
<https://www.theguardian.com/world/2018/jan/17/andrei-babis-czech-government-to-resign-after-losing-confidence-vote>

implementing recommendations i to xiv as soon as possible, however – at the latest – by 30 June 2019.

84. Finally, GRECO invites the authorities of the Czech Republic to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.