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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

THIRD *INTERIM* COMPLIANCE REPORT

BOSNIA AND HERZEGOVINA

Adopted by GRECO at its 98th Plenary Meeting
(Strasbourg, 18 – 22 November 2024)

I. INTRODUCTION

1. The Third *Interim* Compliance Report assesses the measures taken by the authorities of Bosnia and Herzegovina to implement the recommendations issued in the Fourth Round Evaluation Report on Bosnia and Herzegovina (see paragraph 2) on “corruption prevention in respect of members of parliament, judges and prosecutors”.
2. GRECO adopted the Fourth Round Evaluation Report on Bosnia and Herzegovina at its 70th plenary meeting (on 4 December 2015) and it was made public on 22 February 2016, following authorisation by Bosnia and Herzegovina ([GrecoEvalIVRep\(2015\)2E](#)). The corresponding Compliance Report was adopted by GRECO at its 79th Plenary Meeting (on 23 March 2018) and made public on 22 May 2018 ([GrecoRC4\(2017\)22](#)), following authorisation by Bosnia and Herzegovina.
3. The Second Compliance Report ([GrecoRC4\(2020\)6](#)), adopted by GRECO at its 85th plenary meeting (on 25 September 2020) and published on 16 December 2020, following the authorisation of Bosnia and Herzegovina, concluded that in view of the lack of tangible progress in implementing GRECO’s recommendations, the very low level of compliance with the recommendations was “globally unsatisfactory” in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure.
4. In the *Interim* Compliance Report ([GrecoRC4\(2021\)21](#)), adopted by GRECO at its 89th plenary meeting (on 3 December 2021) and made public on 1 September 2022, following authorisation by Bosnia and Herzegovina, GRECO concluded that the very low level of compliance with the recommendations remained “globally unsatisfactory”
5. In the Second *Interim* Compliance Report ([GrecoRC4\(2023\)9](#)) adopted by GRECO at its 93rd plenary meeting (on 24 March 2023) and made public on 8 June 2023, following authorisation by Bosnia and Herzegovina, GRECO concluded again that the very low level of compliance with the recommendations remained “globally unsatisfactory” and asked the Head of the delegation of Bosnia and Herzegovina to provide a report on the measures taken to implement the outstanding recommendations by 31 March 2024 at the latest. That report was received on 6 May 2024 and served as a basis for the current Third *Interim* Compliance Report.
6. GRECO selected Spain (with respect to members of parliament) and North Macedonia (with respect to judges and prosecutors) to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Lourdes MAGAÑA DE LARRIVA, on behalf of Spain and Ms Elena SAZDOV, on behalf of North Macedonia. They were assisted by GRECO’s Secretariat in drawing up this Third *Interim* Compliance Report.

II. ANALYSIS

7. GRECO, in its Fourth Round Evaluation Report, addressed 15 recommendations to Bosnia and Herzegovina. In the Second *Interim* Compliance Report, GRECO concluded that recommendation xv had been dealt with in a satisfactory manner, recommendations i, ii, iv, vii, ix, xi, xii and xiv had been partly implemented, and recommendations iii, v, vi, viii, x and xiii had not been implemented. Compliance with the 14 outstanding recommendations is dealt with below¹.

¹ *Corrigendum*: In the original version of this report, incorrect information was indicated. Paragraph 7 above has been revised accordingly to reflect the conclusions of the Second *Interim* Compliance Report on Bosnia and Herzegovina.

Recommendation i

8. *GRECO recommended (i) introducing precise rules defining and facilitating public consultation processes of legislation in Parliament, and assuring effective compliance thereafter; and (ii) enhancing the transparency of the parliamentary process by introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process.*
9. It is recalled that, in the previous report, this recommendation was partly implemented. In respect to the second part of the recommendation, GRECO regretted that no new information was provided about introducing rules on how parliamentarians should act in respect of third parties. The first part of the recommendation had already been assessed as implemented.
10. The authorities of Bosnia and Herzegovina now indicate how can third parties influence the legislative process through various means of contacting parliamentarians (direct contacts, meetings, etc.), which does not directly address the substance of the recommendation.
11. GRECO recalls that the aim of the second part of the recommendation is not to make parliamentarians more accessible to any third parties, but to frame the interactions between parliamentarians and lobbyists and other third parties who seek to influence the legislative process. This calls for transparency rules on, *inter alia*, registration and public information on the contacts between parliamentarians and third parties, including the names of the persons met and sufficient amount of detail on matters discussed. As no information has been given in this regard, GRECO cannot consider that this part of the recommendation has been implemented.
12. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii

13. *GRECO recommended that internal mechanisms be further articulated to promote and enforce the Code of Conduct for parliamentarians and thereby safeguard integrity within the legislature, including by (i) providing tailored guidance, counselling and training regarding ethical, integrity and corruption prevention related provisions, as well as (ii) developing effective oversight and compliance tools on these critical matters.*
14. It is recalled that, in the previous report, this recommendation was partly implemented. As regards the first part of the recommendation, GRECO did not notice new developments. As regards the second part of the recommendation, GRECO acknowledged that amendments to the Code of Conduct at the State level strengthened the oversight mechanism, but was still expecting this system to be effectively implemented.
15. The authorities of Bosnia and Herzegovina now indicate that a Code of Conduct was adopted for the members of the Assembly of the Brčko District of Bosnia and Herzegovina on 14 March 2024.² Moreover, the authorities indicate that there is a Code of Ethics for the members of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, but that there is still no text on ethical principles that would refer in its entirety to the Parliament of the Federation of Bosnia and Herzegovina, though the Rules of Procedure of the House of Peoples of the

² Official Gazette of the Brčko District of Bosnia and Herzegovina, No. 14/24.

Parliament of the Federation of Bosnia and Herzegovina prescribes the obligation to adopt such a code.

16. GRECO takes note of the developments of codes of conduct for some legislative assemblies at Entity level, as reported. However, this information does not concern the existing Code at the State level, which is targeted by the recommendation. No new information has been given as regards the proper implementation of this Code, neither as regards guidance, counselling and training, nor as regards the effective operation of the oversight mechanism.
17. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii

18. *GRECO recommended harmonising the legislation on conflicts of interest throughout the national territory.*
19. It is recalled that, in the previous report, this recommendation was not implemented. GRECO had no information about proper evolutions towards an harmonisation of the legislation and regretted in particular that the draft Law on Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina had failed to be adopted so far.
20. The authorities of Bosnia and Herzegovina now indicate that the Parliamentary Assembly of Bosnia and Herzegovina adopted on 8 March 2024 the Law on Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina.³ It aims at, in exercising public office at the State level, preventing conflicts of interest, preventing influence on decision-making, strengthening integrity, objectivity, independence, impartiality and transparency, preventing and fighting corruption and strengthening public trust in public institutions. It defines, in particular, the notion of conflict of interest, establishes incompatibilities to prevent conflicts of interest (commercial and economic activities, secondary activities, acceptance of gifts), regulates specific obligations for public officials to declare and make public their assets as well as the relevant control system, establishes a Commission for Deciding on the Conflict of Interest in the Institutions of Bosnia and Herzegovina ("the Commission") and the procedures attached to the functioning of this Commission, and provides for rules and sanctions against those violating the law.
21. GRECO welcomes the adoption of the Law on Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina which contains relevant provisions for strengthening the integrity of public officials and preventing conflicts of interest. However, no information has been given as regards the co-existence of this state-level legislation with the systems on conflicts of interest established at the Entity level (in the Republika Srpska and the Brčko District). Thus, a proper articulation between the legislation at the State level and the Entity level remains expected, in particular as regards the enforcement machineries. Therefore, GRECO cannot consider that the recommendation has been implemented, even partly.
22. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv

23. *GRECO recommended (i) unifying the applicable requirements regarding financial disclosure in one single declaration form; (ii) introducing a duty to report the property of close relatives and to provide an update in the event of significant change in the information to be reported in the course of the legislative mandate; and (iii) ensuring*

³ Official Gazette of Bosnia and Herzegovina, No. 18/24, published on 15 March 2024.

the publication of and easy access to financial information, with due regard to the privacy and security of parliamentarians and their close relatives subject to a reporting obligation.

24. It is recalled that, in the previous report, this recommendation was partly implemented, as no new information was provided as regards the expected obligation for parliamentarians to report significant changes to assets and property in the course of their mandate and to ensure publication of and easy access to financial reports.
25. The authorities of Bosnia and Herzegovina now report that the obligation of public officials, including parliamentarians, to submit a financial state of affairs and asset declaration is prescribed by Article 16 of the new Law on Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina. The declaration must be submitted within 30 days from the day of taking office by the public official for himself/herself and his/her close relatives and be kept registered and made public through Internet by the Commission (see above). The public official is obliged to submit to the Commission a declaration once a year, as well as an updated declaration at the request of the Commission in the event of initiation of a procedure to determine a violation of the law. He/she is obliged to submit a notice of termination of public office to the Commission within 30 days from the date of termination of public office and to submit a declaration one year after termination of public office. The Commission must establish, update and verify the register of public officials and their assets. It carries out the procedure for determining the existence of a conflict of interest in a specific action or situation and can impose sanctions in case of violation. A rulebook is to be adopted by the Commission regulating the modalities for the declaration, including data protection measures.
26. GRECO welcomes the rules and procedure for declaring assets and property of public officials, including parliamentarians, contained in the new legislation on conflicts of interest. These provisions are in line with GRECO's requirements in this field and with the purpose of the recommendation. However, GRECO notes that a public register recording the asset declarations of public officials remains to be established by the Commission and the declarations are to be made public on the Commission's official website, which is not yet functioning. Therefore, GRECO cannot consider that the third part of the recommendation has been implemented so far.
27. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v

28. *GRECO recommended (i) coupling the disclosure system with an effective control mechanism (including random verifications) and (ii) introducing appropriate sanctions for false reporting.*
29. It is recalled that, in the previous report, this recommendation was not implemented, as GRECO was waiting in particular for the law on conflicts of interest to be adopted.
30. The authorities of Bosnia and Herzegovina now indicate that the new Law on Preventing Conflicts of Interest establishes a Commission for Deciding on the Conflict of Interest in the Institutions of Bosnia and Herzegovina ("the Commission") and the procedures attached to the functioning of this Commission, and provides for rules and sanctions against those violating the law. The Commission is a permanent and independent body established by the Parliamentary Assembly of Bosnia and Herzegovina. It is composed of seven members from outside the holders of public functions (they cannot have political or elective functions or having had such functions in the last five years) appointed according to their competence, reputation and expertise, and representing the various entities. The Commission is supported in

its operational functioning by the Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption. The Commission controls the accuracy and completeness of the data from the public officials' declarations. The procedure for collecting and verifying data is to be prescribed by the Commission in a specific Rulebook. The Commission establishes and maintains a public register of assets of public officials, including the management of data protection rules. Data are published on the Commission's official website. The Commission may initiate a procedure to determine a violation of the law and impose sanctions *ex officio* (if there is a credible report by any natural or legal person who has relevant information or a well-founded suspicion), at the request of the public official, at the request of the immediate superior of the public official or on the basis of a conflict of interest report by any natural or legal person who has relevant information. As regards parliamentarians, the Commission can impose the following sanctions for violations of the law: a reprimand; a fine in the amount ranging from BAM 1,000 to BAM 20,000⁴ if the public official provides false information in the declaration with the intention of concealing information about assets and income; a call for resignation.⁵

31. GRECO welcomes the rules and procedure for controlling and enforcing, through a specific commission, the system of asset and property declaration by public officials, including parliamentarians, contained in the new legislation on conflicts of interest. These provisions are in line with GRECO's requirements in this field and with the purpose of the recommendation. However, GRECO is expecting the Rulebook establishing the procedure for collecting and verifying data contained in the declarations to be adopted and effectively applied by the Commission, so as to assess the recommendation as fully implemented.

32. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi

33. *GRECO recommended that the advisory, supervisory and enforcement regime regarding conflicts of interest be completely reviewed and properly articulated, notably, by ensuring its independence and timeliness, and by making it effective through a system of appropriate sanctions.*
34. It is recalled that, in the previous report, this recommendation was not implemented, as GRECO highlighted the persistent lack of progress.
35. The authorities of Bosnia and Herzegovina now indicate that the new Law Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina has entrusted the Commission for Deciding on the Conflict of Interest in the Institutions of Bosnia and Herzegovina to oversee and ensure the proper enforcement of the implementation of the regime of conflicts of interest (see above). The Commission conducts the procedure for determining the existence of a conflict of interest in a specific action or situation and can impose sanctions. If a public official (including parliamentarians) suspects the existence of a conflict of interest, he/she can apply by written to the Commission for an advisory opinion within eight days. This advisory opinion includes recommendations for possibly eliminating the conflict of interest. If a conflict of interest is found, the Commission sets a deadline for the public official to take the relevant measures. If a violation of the law is suspected, the Commission must carry out a procedure within six months. If criminal offences are suspected, the Commission must inform the prosecutor's office within eight days. The Commission can impose sanctions for violations of the law: a reprimand; a fine in the amount

⁴ From 511 to 10 225 euros (exchange rate as of 20 September 2024).

⁵ Article 35 of the Law Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina.

ranging from BAM 1,000 to BAM 20,000⁶ if the public official provides false information in the declaration; a call for resignation.⁷ The members of the Commission have just been appointed by both chambers of Parliament of Bosnia and Herzegovina.

36. GRECO welcomes the mechanism for advising on, supervising and ensuring the enforcement of the regime of conflicts of interest aimed at parliamentarians, including an appropriate system of sanctions. This mechanism is due to be devoted to a permanent and independent body according to specific rules and procedures, with appropriate means. GRECO notes that the role of the Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption in this regard, which was questioned in the Evaluation Report vis-à-vis the role of the Commission, is to support the Commission in its operational functioning. These provisions are in line with GRECO's requirements in this field and with the purpose of the recommendation. However, the members of the Commission have just been appointed, which does not make it possible to assess the effective independence of the Commission yet. In the absence of tangible results concerning the proper functioning of the Commission, GRECO cannot consider that the recommendation has been fully implemented.
37. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii

38. *GRECO recommended that the respective parliaments of the Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina be invited, similarly, to take action in accordance with the recommendations issued in this section of the report.*
39. It is recalled that, in the previous report, this recommendation was partly implemented. More precisely, GRECO welcomed the adoption of a comprehensive law on preventing conflicts of interest at the level of the Brčko District, while highlighting that it remained limited to one of the entities.
40. As the authorities of Bosnia and Herzegovina do not report now new information, GRECO can only conclude that recommendation vii remains partly implemented.

Corruption prevention in respect of judges and prosecutors

Recommendation viii

41. *GRECO recommended that determined legislative and operational measures be taken to strengthen the High Judicial and Prosecutorial Council's role in protecting the holders of judicial and prosecutorial offices from undue influences – both real and perceived – including by (i) providing for separate judicial and prosecutorial sub-councils; and (ii) avoiding an over-concentration of powers in the same hands concerning the different functions to be performed by members of the High Judicial and Prosecutorial Council; and (iii) ensuring that decisions of the High Judicial and Prosecutorial Council on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court.*
42. It is recalled that, in the previous report, this recommendation was not implemented. GRECO noted that there was no concrete outcome as yet to address the setting up of separate judicial and prosecutorial sub-councils, to avoid an over-concentration of powers performed by the members of the High Judicial and Prosecutorial Council

⁶ From 511 to 10 225 euros (exchange rate as of 20 September 2024).

⁷ *Ibid.*

(HJPC), and to allow decisions of the HJPC on appointment, promotion and disciplinary liability to be appealed before a court.

43. The authorities of Bosnia and Herzegovina now report that the Parliamentary Assembly of Bosnia and Herzegovina adopted in September 2023⁸ and January 2024⁹ amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The new legislation regulates conflict of interest of the members of the HJPC and defines conflicts of interest for members of the HJCP. It introduces the obligation for judges and prosecutors to declare assets and interests, registered, made public on the HJPC's website and subject to regular and additional verification and prescribes misdemeanours in case of violation of the declaration system. The new legislation establishes a Department for the implementation of the declaration-based procedure (the Department). It also forbids members of the HJPC to apply for or be elected to a vacant position in the judiciary that represents promotion (including positions in the constitutional courts of entities, the position of a leading civil servant in the Office of the Disciplinary Prosecutor and the Secretariat of the HJPC) within one year after the end of the term. The law also specifies the cases for terminating the term of, or for dismissing, the members of the HJPC, as well as the dismissal procedure. It provides for a prohibition from performing incompatible duties for judges and prosecutors and defines the acceptable additional activities judges and prosecutors can perform – determining the cases in which judges and prosecutors can request opinions from the HJPC on such a possibility.
44. The new legislation also provides that decisions on appointment of judges and prosecutors constitute a final administrative act which can be subject to review before the Court of Bosnia and Herzegovina within 8 days from the day of the publication of the decision when the Decision on Appointment is published on the HJPC's website. The Court must decide through an urgent procedure (eight days). The newly appointed judge or a prosecutor's assumption of office is then postponed until the completion of court proceedings. Moreover, this new legislation provides that decisions of the Second-instance Disciplinary Commission is a final administrative act, subject to review before the Court of Bosnia and Herzegovina through an urgent procedure.
45. Furthermore, the new legislation provides that the Parliamentary Assembly of Bosnia and Herzegovina must adopt the Law on the High Judicial and Prosecutorial Council within one year, to be harmonized with the standards of the European Union. A new Working Group for the preparation of this draft has been set up in February 2023.
46. GRECO welcomes the adoption of essential amendments to the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. This new legislation strengthens the HJPC's role in protecting the holders of judicial and prosecutorial offices from undue influences, as recommended by GRECO. In particular, it establishes a regime for the prevention of conflicts of interest for its members, including the obligation to declare assets and interests, the definition of incompatibilities for new appointments and secondary activities and rules for the termination of the mandate and the dismissal from the position of member of the HJCP. The new set of rules represent a welcome development. That said, the conflict of interest provision may be too broad in its scope and GRECO understands that the Rules of Procedure of the HJPC are to regulate in more detail the cases in which a conflict of interest of a HJPC member is assumed to exist, as well as the grounds and procedures for disqualification of the member concerned. This is yet to be done. GRECO also considers that the advisory mechanism to be yet established, as per

⁸ Official Gazette of BiH, No. 63/23, published on 15 September 2023.

⁹ Official Gazette of BiH, No. 9/24 published on 06 February 2024.

recommendation xi, will further assist in the implementation of the upgraded conflict of interest prevention regime.

47. Further, GRECO notes that, at this stage, there is no separate judicial and prosecutorial sub-councils, as recommended. Likewise, no information was provided on any particular measure put in place to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the HJPC.
48. Finally, GRECO welcomes that the new legal framework provides for an appeal before a court, according to an urgent procedure, as regards decisions on appointment, and disciplinary liability of judges and prosecutors. That said, some gaps still exist in this area. Notably, there is no judicial review of the decision to suspend a HJPC member. GRECO further refers to the Venice Commission advice according to which all substantive decisions adopted by the HJPC should be reasoned and subject to judicial review.¹⁰
49. GRECO encourages the authorities to keep the aforementioned considerations in mind when further refining the HJPC legislative framework, as anticipated. The authorities have resorted to the Venice Commission to provide advice in this process.¹¹
50. In light of the above, GRECO concludes that recommendation viii has been partly implemented.

Recommendation ix

51. *GRECO recommended that further steps are taken to improve the performance appraisals (with a priority given to qualitative over quantitative criteria) to both enforce the high ethical and performance standards expected from judges and prosecutors and assist in identifying meritorious candidates for promotion.*
52. It is recalled that, in the previous report, this recommendation was partly implemented. GRECO welcomed the new criteria for the evaluation of judges and prosecutors but was waiting for these criteria to be implemented and to produce results.
53. The authorities of Bosnia and Herzegovina now reiterate that the HJPC adopted in December 2022 evaluation criteria for judges and prosecutors as well as instructions for their implementation, which are being implemented. In November 2023, the HJPC indicated that it would adopt new quantitative criteria with an analytical evaluation of the judicial / prosecutorial work to introduce more qualitative elements within the evaluation. The authorities also indicate that the amendments to the Law on the HJPC (see above) now give authority to the HJPC to determine both the procedure and criteria for evaluating the work of judges and prosecutors, which provides an explicit legal basis for adopting a new rulebook for this evaluation. This Rulebook was adopted in February 2024, as a part of the Action Plan for the Implementation of the amended law on the HJPC.
54. GRECO welcomes further regulatory progress so that judges and prosecutors can be evaluated according to a comprehensive evaluation system, including quantitative and qualitative criteria. In this connection, GRECO can only reiterate the Venice Commission considerations regarding the importance of ensuring that quantitative criteria do not penalise judges for the reasonable exercise of judicial discretion, even

¹⁰ See Venice Commission, [CDL-AD\(2021\)015](#), *op. cit.*, para. 89(d).

¹¹ See [Venice Commission, CDL-AD \(2024\)009](#).

when their decisions are overturned in appeal. Further clarity is desirable on the interpretation and application of appraisal criteria (particularly, regarding “performance quantity” and the “statistical quality of decisions”) to make sure that such a risk is prevented. More information is needed on the effective implementation of this new evaluation system and its results.

55. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x

56. *GRECO recommended (i) carrying out an analysis of the budgetary and staff situation in courts and prosecution offices, with a view to ensuring that the resources necessary are available and efficiently used across the judicial systems; and (ii) seeing to it that judicial resources are better prioritised with due regard for the gravity of cases.*
57. It is recalled that, in the previous report, this recommendation was not implemented, as no new developments had taken place with regard to the first part of the recommendation. As regards the second part of the recommendation, GRECO underlined that the digitalisation of budgeting systems for a better prioritisation of prosecutorial resources depending on the seriousness of the case was not enough in itself to answer to the expectations of the recommendation.
58. The authorities of Bosnia and Herzegovina now indicate that the participation of the HJPC in the process of drawing up annual budgets for courts and prosecutor's offices, provided for by the law, requests negotiations with various executive and legislative authorities. The court financing system is being strengthened within the framework of an international cooperation programme. Specific software has been developed (in test phase) for creating and monitoring budget processes and reducing the time necessary for these tasks, thereby ensuring a longer period of time for coordination with the courts and prosecutors' offices and negotiations with the executive and legislative bodies. In 2023, the international programme made it possible to provide support to the courts for writing additional explanations for budget funds. The HJPC hold a series of meetings with representatives of the executive and legislative authorities, which resulted in successful negotiations as regards additional funds. The programme also contributed to implementing best practices on court financing systems to the system of BiH.
59. Moreover, in 2023, the HJPC worked on the reorganisation of business processes in courts, which contributed to the optimisation of human resources and a greater effectiveness of the courts (including the delegation of administrative tasks from judges to non-judicial staff for strengthening court case management). A new category of staff was set up: the experts associate for providing assistance to judges.
60. GRECO takes note of the measures taken recently to strengthen the analysis of the budgetary and staff situation in courts and prosecution offices. It has made it possible to reinforce the participation of the judicial and prosecutorial bodies in budgetary negotiations¹², to increase budgetary allocations to courts and prosecution offices, and to reorganise the missions of the non-judge / non-prosecutor staff so that judges and prosecutors can better focus on their judicial and prosecutorial tasks. Together with the development of specific IT tools, which facilitate the prioritisation of resources depending on the seriousness of the cases, these measures are in line with the purpose of the recommendation.

¹² See also Venice Commission, CDL-AD (2024)009 on how to advance the judiciary's role regarding budgetary and managerial powers.

61. GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

Recommendation xi

62. *GRECO recommended significantly strengthening and further developing – for judges and prosecutors – confidential counselling and dedicated training of a practical nature on issues of ethics and integrity.*
63. It is recalled that, in the previous report, this recommendation was partly implemented. GRECO noted that training activities on ethics and integrity had regularly taken place at the Entity level and that ethics training had been made obligatory. However, the combined system of confidential counselling for both judges and prosecutors which was about to be implemented did not appear as appropriate, as these professions are basically different and should be independent from each other.
64. The authorities of Bosnia and Herzegovina now report that in January 2024, the HJPC decided to establish confidential counselling within the judiciary as a preventive and educational mechanism aimed at solving ethical dilemmas, strengthening integrity and providing training to holders of judicial office. Guidelines for the establishment of such a system were adopted by the HJPC in March 2024 to regulate the choice of confidential counsellors, the counselling procedure, and the modalities for recording and reporting on the counselling. They have been forwarded to all judicial institutions. Of the 102 judicial institutions, 28 confidential advisors were appointed (17 judges and 11 prosecutors) and trained – further training is planned.
65. Moreover, the authorities report that new four-year plans (2022-2025) have been adopted for the integrity of courts and prosecutor's offices and confirm that training of judges and prosecutors on integrity and ethics issues remains considered of special importance. In 2023, a large number of judges and prosecutors have continued to participate in these trainings, including through on-line training. They recall that a Model Code of Ethics for Employees in the Judiciary and Guidelines for the Behaviour of Employees in Judicial Institutions in BiH were adopted by the HJPC in 2021, which were the subject of a series of trainings. They indicate that the HJPC submits once a year to the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption (APIK) a report on the level of implementation of the integrity plans by the judicial institutions in Bosnia and Herzegovina.
66. GRECO takes note of the information provided and reiterates its appreciation for the training activities on ethics and integrity regularly organised for judges and prosecutors. It welcomes the effective setting up of a system of confidential counselling for judges and prosecutors and the appointment and training of 28 confidential advisors within the judicial institutions, including both judges and prosecutors, which is in line with the purpose of the recommendation.
67. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xii

68. *GRECO recommended developing rules on conflicts of interest that apply to all judges and prosecutors, along with an adequate supervisory and enforcement regime.*
69. It is recalled that, in the previous report, this recommendation was partly implemented. GRECO commended on the system for monitoring the implementation of the standards contained in the Guidelines for the prevention of conflicts of interest

in the judiciary. However, it noted the absence of a system of sanctions for the violations of these standards which weakened their proper enforcement.

70. The authorities of Bosnia and Herzegovina now indicate that further activities are being carried out and data are being collected for monitoring the implementation of the integrity plans within the judicial institutions.
71. GRECO reiterates its appreciation for the effective monitoring of the implementation of rules on conflicts of interest by judges and prosecutors, but note that no information has been given as to the establishment of a system of appropriate sanctions when violations of these rules have been found.
72. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiii

73. *GRECO recommended (i) developing an effective system for reviewing annual financial statements, including adequate human and material resources, co-operation channels with relevant authorities and appropriate sanctions for non-compliance with the rules or false reporting and (ii) considering ensuring the publication of and easy access to financial information, with due regard to the privacy and security of judges, prosecutors and their close relatives.*
74. It is recalled that, in the previous report, this recommendation was not implemented. GRECO noted that an increasing number of judicial office-holders consented to the publication of their financial statements, but that no other developments had taken place, in particular, that the Law on the HJPC had not been amended yet to regulate the submission and verification of financial statements of judicial office-holders.
75. The authorities of Bosnia and Herzegovina now report that the Law on the HJPC was amended in September 2023 to establish a system for verifying the declarations of assets and interests of judges, prosecutors and members of the HJPC. In February 2024, the HJCP adopted a Rulebook on declarations of assets and interests, which regulates, according to the relevant legislation, the system for submitting, verifying and publishing the declarations of assets and interests, and for sanctioning the violations of these rules.
76. Judges, prosecutors and members of the HJPC must submit electronically (electronic forms for declaring assets and interests has recently been established) declarations including their own assets and interests, as well as those of their partners, parents and children and other persons living with them. They must submit an initial declaration no later than 30 days from the date of the appointment, an annual declaration during the exercise of their functions, and a declaration upon the end of the term. An independent Department was established in June 2024, which is about to be staffed. It is responsible for the enforcement of the declaration procedures. It has the task of regularly verifying the accuracy, completeness and truthfulness of the declared data and analyses the data from the declaration, according to specific criteria. It can conclude cooperation agreements with other bodies detaining useful data for assessing the content of the declarations. Judges, prosecutors and members of the HJPC must reply to the questions of the Department and complete their declarations where appropriate. The declarations are made public on the website of the HJPC. An objection submission mechanism is open to the public on the website of the HJPC. Objections are addressed by the Department which may carry out additional verifications. Should the Department decide not to address the objections, it must explain it in writing. Declarations are recorded by the Department. Disciplinary procedures and sanctions (misdemeanours) are provided for in case of non-cooperation with the Department.

77. The Department prepares and publishes a six-month report on its work, published on the website of the HJPC. This report includes statistical and descriptive data on the verifications performed. The verification system by the Department is controlled by an external system composed independent experts from among international partners hired by the HJCP who submit periodic reports to the HJPC.
78. GRECO welcomes the setting up of a comprehensive system within the judiciary and the prosecutorial system for declaring assets and interests, including appropriate rules for declaring, recording, publishing and verifying data and for sanctioning violations of these rules. This is in line with the recommendation. GRECO is expecting the independent Department tasked with enforcing the declaration system to be fully operational so as to assess the effectivity of the system, in particular as regards the human and material resources allocated to this Department. Therefore, it cannot consider at this stage that the recommendation has been fully implemented.
79. GRECO concludes that recommendation xiii has been partly implemented.

Recommendation xiv

80. *GRECO recommended that (i) the independence, capacity and transparency of the activity of the Office of the Disciplinary Counsel be increased; and that (ii) the disciplinary procedure and sanctions in case of misconduct of judges and prosecutors be revised in order to ensure that cases are decided in a timely manner and that misconduct is effectively subject to proportionate and dissuasive sanctions.*
81. It is recalled that, in the previous report, this recommendation was partly implemented. More precisely, as regards the first part of the recommendation, GRECO regretted that no developments had been reported concerning measures to increase the independence and capacity of the Office of the Disciplinary Counsel (ODC). As regards the second part of the recommendation, GRECO noted an increase in the number of disciplinary proceedings and that misconduct of judges and prosecutors were subject to a wider range of sanctions. However, GRECO was expecting for concrete examples so as to assess whether misconduct was effectively subject to proportionate and dissuasive sanctions.
82. The authorities of Bosnia and Herzegovina now report that a workshop on disciplinary procedure took place in 2023 for members of Disciplinary Commissions, members of the HJPC, judges and prosecutors. Within the HJCP, the ODC files disciplinary complaints against judges and prosecutors and lead the prosecution in disciplinary proceedings. It can neither directly influence disciplinary measures and decisions of the Disciplinary Commissions and the HJPC, nor influence the length of disciplinary proceedings before Disciplinary Commissions. Disciplinary proceedings cannot be reconsidered once terminated. Therefore, the authorities state that the recommendation cannot be implemented as regards the independence of the ODC. They also consider that that it is not possible to achieve greater transparency in the work of the ODC considering the secrecy of investigation. However, the website of the HJPC includes basic information on the competences of this disciplinary body and instructions for citizens on how to submit a complaint, as well as publications of the final decisions of Disciplinary Commissions.
83. The authorities indicate that, in 2023, the Office of the Disciplinary Prosecutor initiated 33 disciplinary proceedings against 32 holders of judicial office. Between 14 November 2022 and 31 December 2023, 42 proceedings were concluded with a binding decision (7 written warnings, 10 public warnings, 16 salary reductions, 5 claims rejected, 1 proceeding suspended, 1 request for removal suspended, 2

requests for temporary removal suspended – reinstated), 12 of them ending with an agreement.

84. GRECO notes the position of the authorities according to which the independence, capacity and transparency of the activity of the ODC cannot be increased considering its role and powers provided by the existing legislation. However, it recalls that the members of the ODC should be independent from the members of the HCJP and have no access to individual pending cases, and that the disciplinary panels should be composed so as to avoid corporativism.¹³ Therefore, the first part of the recommendation cannot be considered as implemented satisfactorily. As regards the second part of the recommendation, GRECO notes an increase in the number of disciplinary proceedings concluded in the recent period but still cannot assess the relevance of the sanctions given vis-à-vis the misconduct taken into consideration, as no information has been given as regards the cases concerned by disciplinary proceedings. GRECO recalls in particular that sanctions must be proportionate to the seriousness of the misconduct.¹⁴ Therefore, GRECO considers that a big bulk of the recommendation remains not implemented.
85. GRECO concludes that recommendation xiv remains partly implemented.

III. CONCLUSIONS

86. **In view of the foregoing, GRECO concludes that little progress has been made by Bosnia and Herzegovina. Indeed, after a nine year evaluation procedure, only three of the fifteen recommendations contained in the Fourth Round Evaluation Report have been implemented satisfactorily or dealt with in a satisfactory manner.** Eleven recommendations have been partly implemented and one recommendation remains not implemented.
87. More specifically, recommendations x, xi and xv have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, ii, iv, v, vi, vii, viii, ix, xii, xiii and xiv have been partly implemented and recommendation iii has not been implemented.
88. With respect to members of parliament, progress can be noted with the adoption of the Law on Preventing Conflicts of Interest in the Institutions of Bosnia and Herzegovina, but the proper articulation of this state-level legislation with the existing systems on conflicts of interest at the Entity level remains to be demonstrated. An appropriate regime for declaring assets and interest has been introduced at the State level but remains to be effectively implemented. Interactions between parliamentarians and third parties and lobbyists are not properly regulated. Concrete measures are to be taken to ensure the proper enforcement of ethical and integrity rules for parliamentarians both at State and Entity levels. Such rules must be accompanied by appropriate guidance, counselling and training, as well as the development of effective oversight and compliance tools.
89. Regarding judges and prosecutors, GRECO welcomes the amendments to the law on the High Judicial and prosecutorial Council (HJPC). This strengthens the HJPC's role in protecting the holders of judicial and prosecutorial offices from undue influence. While the regime regarding conflicts of interest prevention for the HCJP's members has been set up, it remains to be completed by a system of sanctions in case of violation. The obligation for judges and prosecutors to declare assets and interests

¹³ See also Venice Commission, CDL-AD (2024)009, para. 134 on the participation of HJPC members in the selection and removal of the chief disciplinary council and other employees, para. 153. on the prohibition for the ODC to have access to individual pending cases, and para. 135 on the composition of the disciplinary panels.

¹⁴ See also Venice Commission, CDL-AD (2024)009, para. 140 and follow.

has been satisfactorily introduced and is due to be completed by an effective oversight mechanism. The new legislation defines incompatibilities for new appointments and secondary activities, and rules for the termination of the mandate and the dismissal from the position of member of the HJCP. An appeal before a court is now possible as regards decisions on appointment and disciplinary liability of judges and prosecutors. Regular training activities on ethics and integrity and the adoption of new criteria for the performance evaluation of judges and prosecutors are positive steps forward, and a dedicated confidential counselling system for judges and prosecutors has been set up. The independence, capacity and transparency of the activity of the Office of the Disciplinary Counsel within the HJCP needs to be strengthened, and it should be ensured that misconduct of judges and prosecutors is effectively subject to proportionate and dissuasive sanctions. Measures have been taken to reinforce the participation of the judicial and prosecutorial bodies in budgetary negotiations and increase the means allocated to judicial and prosecutorial work. A communication strategy for the judiciary has been adopted.

90. In view of insufficient progress overall in implementing GRECO's recommendations since the last *Interim* Compliance Report, GRECO concludes that the very low level of compliance with the recommendations remains "globally unsatisfactory" within the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure.
91. In application of paragraph 2 (i) of Rule 32 of the Rules of Procedure, GRECO asks the Head of delegation of Bosnia and Herzegovina to provide a report on measures taken to implement the outstanding recommendations (i.e. recommendations i, ii, iii, iv, v, vi, vii, viii, ix, xii, xiii and xiv) by 30 November 2025 at the latest.
92. In addition, in accordance with Rule 32, paragraph 2, sub-paragraph (ii.b), GRECO invites the Secretary General of the Council of Europe to send a letter to the Minister of Foreign Affairs of Bosnia and Herzegovina, drawing his attention to non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
93. Finally, GRECO invites the authorities of Bosnia and Herzegovina to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.