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Joint First and Second Round Evaluation

Compliance Report on Kazakhstan

Adopted by GRECO
at its 96th Plenary Meeting
(Strasbourg, 18-22 March 2024)

I. INTRODUCTION

1. GRECO adopted the Joint First and Second Round Evaluation Report on Kazakhstan at its 90th Plenary Meeting (Strasbourg, 21-25 March 2022). This report ([Greco Eval I-II Rep \(2021\) 1E](#)) was made public by GRECO on 15 June 2022.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Kazakhstan submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 30 September 2023.
3. GRECO selected, in accordance with Rule 31 revised bis, paragraph 1 of its Rules of Procedure, Georgia and Lithuania to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Giorgi BAGDAVADZE on behalf of Georgia and Ms Jolanta BERNOTAITE on behalf of Lithuania. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The objective of the RC-Report is to assess the measures taken by the authorities of Kazakhstan to comply with the recommendations contained in the Joint First and Second Round Evaluation Report¹.

II. ANALYSIS

5. It was recalled that GRECO in its Joint First and Second Round Evaluation Report addressed 27 recommendations to Kazakhstan. Compliance with these recommendations is dealt with below.

Recommendation i

6. *GRECO recommended (i) carrying out comprehensive studies, including research independent from the state, in order to gain broader insight into the existence of systemic risks of corruption at various levels of the public sector, in the private sector and in respect of ordinary citizens, and (ii) adapting and streamlining the anti-corruption policy and strategies accordingly, focusing and prioritising the anti-corruption measures in respect of risk areas identified and systematically monitoring and measuring their impact. Such monitoring should preferably include state and non-state representatives (e.g. international organisations, NGOs, etc.).*
7. With regard to the first part of this recommendation, the authorities of Kazakhstan refer to the provisions of the Law "On Combating Corruption", stipulating that while the primary responsibility for anti-corruption monitoring and the analysis of corruption risks lies with the Anti-Corruption Agency, any governmental and non-governmental bodies, public associations, journalists and private individuals may take part in this process, for example, by submitting observations and proposals to the Agency. In the authorities' view, this is sufficient to identify systemic corruption risks in all areas and sectors.
8. The authorities further point to sociological research regularly conducted by the Anti-Corruption Agency and other competent bodies, including at the regional level. By way of example the authorities referred to anti-corruption monitoring activities conducted by the Agency in various sectors, including in highway construction, waste removal in Aktobe, public procurement in Astana etc. In addition, they refer to a number of recent public opinion surveys concerning the perceived

¹ The compliance procedure for any member joining GRECO after 23 June 2017 is governed by GRECO's Rules of Procedure as amended. See Rule 31 revised bis and Rule 32 revised bis.

level and causes of corruption and the most affected sectors, such as a survey produced by the National Chamber of Entrepreneurs (Atameken) in 2021, a study commissioned by the Agency to the Research Services Center “Amanat”² in 2022 and a study conducted by the “Institute of Economic Research”³ from August to November 2022 on the well-being of urban and rural residents in Kazakhstan⁴.

9. In addition, the authorities refer to the activities of NGO “Adildik zholy”, established in 2021 and said to be specialised in anti-corruption, with activities covering all regions of Kazakhstan. According to the authorities, monitoring work conducted by “Adildik zholy” allowed to identify a significant number of corrupt practices in a many different areas, including public procurement, land resources management, education, public funding of after-school activities etc. The authorities further point to the work of the Anti-Corruption Research Center within the M.S. Narikbayev Kazakh State University. In particular, this Centre developed a Guide on the identification of corruption risk factors during the drafting of all normative acts.
10. In respect of the second part of the recommendation, the authorities report that the new Concept of Anti-Corruption Policy (2022-2026) and the Action Plan for its implementation, approved by a Presidential Decree on 2 February 2022, were subject to a wide public consultation, involving, *inter alia*, the academic community, business associations and representatives of NGOs. Further, a special website was created to collect input from civil society⁵. The authorities indicate that risks and shortcomings identified in the course of the monitoring, as well as international standards, were duly taken into account in the elaboration of the draft Concept. In addition, the authorities refer to Corruption Risk Maps developed by the Anti-Corruption Agency for each region on the basis of the data collected in the monitoring process.
11. GRECO takes note of the information provided by the authorities. In respect of monitoring and risk analysis measures on the basis of the anti-corruption legislative framework, GRECO points out that they had already been assessed at the time of adoption of the Evaluation Report. GRECO takes note of the various studies, surveys and assessments, which were carried out by several – mostly State – actors. While the aforementioned research and surveys may be useful for identifying some vulnerable sectors and to address the corresponding shortcomings, there is still no reliable comprehensive picture showing the extent and main forms of corruption in respect of the various sectors possibly affected. The growing involvement of civil society actors and academia in anti-corruption monitoring is encouraging. GRECO trusts that the developing cooperation between the anti-corruption authorities and civil society in the area of monitoring and research will allow to gradually build a reliable and comprehensive picture showing the extent and main forms of corruption in respect of the various sectors possibly affected. For the time being, this has not been achieved.
12. As for independent research – which is an important objective of this recommendation – GRECO appreciates that the National Chamber of Entrepreneurs regularly produces surveys. This, however, appears to be an isolated initiative, and the research focuses on business relations and does not cover all the relevant areas where corruption may be taking place. In this connection, GRECO reiterates the importance of giving priority to independent and regular surveys and

² Registered on 24 January 2022, according to information contained in the public records, accessible via the following link: <https://statsnet.co/companies/kz/150027105>

³ The organisation subordinates to the Ministry of National Economy.

⁴ The study was carried out in the framework of the joint programme of the Asian Development Bank and Kazakhstan, entitled “Study of regional inequality in Kazakhstan”.

⁵ <https://www.gov.kz/memleket/entities/anticorruption/press/news/details/261047?lang=ru>

research, as well as the gathering of empirical evidence (see paragraph 33 of the Evaluation Report). In this connection, GRECO stresses that, in order to be carried out in an unprejudiced way and be trusted by society at large, monitoring would benefit from being as independent from the State as possible. GRECO therefore encourages the authorities to continue their efforts towards a more systematic involvement of independent civil society actors, specialised in anti-corruption.

13. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii

14. *GRECO recommended to further streamline corruption prevention policies and actions as activities distinct from and beyond law enforcement, and to broaden the composition and representation of the leading anti-corruption prevention and policy mechanism(s) (existing or new), and/or its dependent bodies, to include pertinent public institutions of various sectors and levels, as well as to provide for systematic involvement of non-state actors (e.g. independent non-governmental organisations, the business sector, self-governing professional unions, non-state media, etc.).*
15. The authorities of Kazakhstan report that a specialised Prevention Service was established within the Anti-Corruption Agency in 2021, which has brought together divisions under a single “wing”. The level and status of this new Service is higher than the level of other departments and services of the Agency, since it reports to the First Deputy Chairman of the Agency (other services report to the Deputy Chairman). It is tasked with identifying and eliminating corruption risks, coordinating compliance services, developing an anti-corruption culture and education. The authorities further note that the prevention work is carried out through the development of the relevant legislative and regulatory framework, the introduction of the project management methodology for preventing corruption in all State bodies⁶, the establishment of the mandatory anti-corruption compliance system⁷ for the public and quasi-public sector (State-owned enterprises), as well as numerous country-wide and local initiatives in the education sector aimed at raising awareness of corruption and fostering anti-corruption culture⁸. In addition, the authorities also inform of awareness-raising activities targeting broader public, such as displaying information banners, broadcasting anti-corruption videos in cinemas, regional and national television channels and placing feature series on the subject of corruption on the Agency’s YouTube channel.
16. Regarding the involvement of non-State actors, the authorities refer to the role of public councils, entities composed in part of civil society representatives and set up within the central and regional executive bodies (see also recommendation xiv in this respect). According to the authorities, members of public councils participate in the meetings of the Anti-Corruption Agency and regional anti-corruption commissions. Further, the new Concept of Anti-Corruption Policy (2022-2026)

⁶ According to the authorities, the methodology consists of four main components, as follows: internal analysis of corruption risks, compliance with anti-corruption norms, formation of an anti-corruption culture and anti-corruption compliance.

⁷ The authorities submit that in 2020 Methodological Recommendations for compliance services were developed; in 2022 the independence of compliance services from the executive was provided for in legislation, making them accountable to boards of directors or supervisory boards of respective bodies; and as of 2023 it has become possible to determine structural units or persons responsible for the functions of anti-corruption compliance service. According to the authorities, at present there are 5619 anti-corruption compliance units operating at the level of local executive bodies, 336 in Central Public Administration and 176 in national holdings. In addition, as of 2023, the Agency is responsible for coordinating the activities of anti-corruption compliance services and on 31 March 2023 a Model Regulation of anti-corruption compliance services in quasi-public bodies has been approved.

⁸ By way of example, the authorities referred to, inter alia, educational programmes at the master’s level launched in three universities, integrating the anti-corruption component into school curricula, teaching the course entitled “Fundamentals of Anti-Corruption Culture” at the higher education level and including the topic of anti-corruption among the training topics at the Academy of Public Administration, delivered to civil servants.

provides for the mandatory involvement of public councils in the assessment of corruption risks. Thus, on the Agency's initiative, anti-corruption commissions have been set up by local public councils, which regularly liaise with the heads of local executive bodies regarding the measures taken to prevent corruption. The Agency also pursues a number of cooperation projects with NGOs and mass media, particularly in the educational sphere and public monitoring. In addition, in August 2023 the Agency launched a "Volunteering project", which aims at strengthening public control and involvement of active citizens in anti-corruption activities mainly by involving volunteers in identifying various violations in the activities of State bodies focussed on quality of works in residential buildings, playgrounds, highways, dormitories, housing and communal services facilities, as well as government procurement.

17. The authorities further submit that the 2024 Operational Plan of the Anti-Corruption Agency provides for systematic coordination with non-State actors. To this end, the Deputy Head of the Prevention Service has been tasked with ensuring effective interaction of the Agency with NGOs and other civil society representatives. The authorities also point to a number of awareness-raising, training and research activities held by the Agency in cooperation with NGOs specialised in anti-corruption (such as "Adildik Zholy", the Nationwide Movement against Corruption "Zhaanaru", the Legal Policy Research Centre, Association of Compliance and Business Ethics), research centres (in particular, MIND and the Academic Integrity League), as well as media outlets (ProTenge and the Corruption Investigation Foundation-Bureau). Finally, the authorities refer to the new Law on Public Control, which was adopted on 2 October 2023 and will enter into force in April 2024 (for more details see Recommendation xiv). In their view, it will foster even further the interaction between the Agency and the anti-corruption NGOs and volunteers.
18. GRECO takes note of the broad range of corruption prevention activities pursued by the Agency including by means of information and awareness-raising activities for the general public, including the topic of corruption prevention at various levels of the education sector, and improving the capacity of public and quasi-public entities to detect and prevent corruption through a newly introduced compliance mechanism. GRECO also welcomes the setting up of the Prevention Service in the Agency, with a higher status than other services, and which brings together under its remit several divisions with preventive-related responsibilities, hence, further streamlining corruption prevention policy, as recommended.
19. GRECO further welcomes the steps taken by the Anti-Corruption Agency to involve civil society in its work, including through the role of public councils (see also paragraph 103 below on the increased participation of civil society representatives in public councils). Even though GRECO did not have an opportunity to examine in detail the new law "On Public Control", it trusts that its entry into force may favour a more effective processing of the civil society input by the Agency, enhancing the impact on corruption prevention. Pending the entry into force of this Law and tangible results from its implementation, GRECO encourages the Kazakhstani authorities to continue their efforts towards more structured involvement of the civil society, in particular, NGOs specialised in anti-corruption issues.
20. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii

21. *GRECO recommended that necessary legislative and practical measures be taken to enhance the independence of the judiciary, and provide adequate functional autonomy to the prosecution and*

law enforcement bodies in charge of combating corruption, and to protect these bodies from any improper influence, including from the highest political/executive powers of the state.

22. As regards the independence of the judiciary, the authorities report, in particular, that the law “On the judicial system and status of judges” was amended to provide for a minimum budgetary threshold for the expenses of the judicial system. Thus, from 2023, the annual budget of the judiciary has been set at no less than 6,5% of the total budget of all State bodies. Further, the salary scheme for all judges was approved by an expanded plenary meeting⁹ of the Supreme Court. Further, a presidential decree of 8 September 2022 established a new autonomous State body – the Judicial Administration –to provide support to the judiciary. Its head is appointed and dismissed by the President of Kazakhstan upon recommendation of the Chairman of the Supreme Court, in coordination with the Supreme Judicial Council. In addition, following legislative amendments of June 2022, the membership of the Supreme Judicial Council was changed to replace two representatives of the executive branch by two representatives of legal community. While the Chairman of the Council is still appointed by the President of Kazakhstan, his/her candidature now requires a preliminary approval by the Senate. In 2023, the procedure for the election of judges of the Supreme Court was modified, now requiring that a list of two candidates for each post be submitted by the President of Kazakhstan to the Senate. Finally, following legislative amendments¹⁰ to the Constitutional Law on Judicial System and Status of Judges of 27 March 2023, which entered into force on 1 January 2024, chairs of district courts are proposed for appointment by the President by the Supreme Judicial Council from among the candidates elected by the expanded plenary session of the regional court.
23. As regards the prosecution and law enforcement bodies, the authorities submit that the independence of the Anti-Corruption Agency has already been stipulated both in legislation and in practical terms. They further indicate that pursuant to the new law “On the Prosecutor’s Office”¹¹, this institution exercises its powers independently and any interference in its activities is prohibited. The authorities further stress that the mandatory consent of the Senate of Parliament is required for the appointment of the Prosecutor General by the President¹², which reflects the existing system of checks and balances.
24. GRECO takes note of the information provided by the authorities. GRECO acknowledges that the fundamental reforms aimed at enhancing the independence of the judiciary and other authorities require a long-term perspective. GRECO also notes the establishment of the Judicial Administration (whereby the former Department for Ensuring the Activity of Courts under the Supreme Court has been transformed into a separate State body), and the involvement of representatives of the judiciary in discussing the budget of the judiciary, including remuneration of judges. In this respect, GRECO notes that the Regulations of the Judicial Administration have been approved by the President, who retains substantive powers in respect of this body.
25. Against the background of the measures reported, GRECO finds it necessary to recall its main concerns expressed in the Evaluation Report, notably the over-arching control exercised by the highest political/executive powers of the State (the President) over the authorities involved in the fight against corruption and the insufficient checks and balances to limit such control. In this connection, GRECO notes that the President of Kazakhstan still plays the decisive role on the

⁹ A new collegial body with the representation of judges of all instances.

¹⁰ See Article 30 paragraph 2-1 of the Constitutional Law “On Judicial System and Status of Judges of the Republic of Kazakhstan” as amended by the Constitutional Law No. 215-VII.

¹¹ Signed by the President on 5 November 2022.

¹² See also paragraph 50 of the Evaluation Report.

appointment of all leading positions in the judiciary, prosecution and law-enforcement. Further, the authorities do not report on any particular reform to limit the subjection of the prosecution service to the authority of the President. Strict hierarchical functioning of various law enforcement agencies makes them vulnerable to undue political influence. In addition, in such circumstances there is always a risk of improper influence from within the system.

26. GRECO observes that more decisive efforts are required in this priority area. It is not sufficient that the relevant legislation enshrines the principle of independence - it must be rigorously implemented through a number of specific safeguards that are yet to be introduced in domestic law and practice. Many recommendations of the Venice Commission (see Opinions no. 629/2011 and no. 938/2018) remain without a tangible follow-up. In this context, GRECO wishes to stress the importance of maintaining close cooperation with international bodies with the pertinent expertise in the reform process, such as the Council of Europe, which may provide legal assistance on issues related to the rule of law. Kazakhstan is therefore encouraged to take resolute action with substantive reforms in this area.
27. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv

28. *GRECO recommended setting a clear and transparent procedure (distinct from political considerations) for appointment of heads and deputy heads of law enforcement bodies, specifying their term of office and reasons for dismissal.*
29. The authorities of Kazakhstan point out, in particular, that the term of office of top leaders can be linked to that of the relevant State bodies. For example, the terms of office of the head of the Anti-Corruption Agency and the head of the Financial Monitoring Agency are linked to that of the President of Kazakhstan and can therefore not exceed seven years. Similarly, the terms of office of the ministers and their deputies (Ministry of Internal Affairs and Ministry of Emergency Situations) cannot be longer than that of the Mazhilis (lower house) of Parliament, which is five years. The authorities further recall that, in accordance with the Constitution, the term of office of the Prosecutor General is five years.
30. As to the appointment procedures, the authorities refer to the relevant presidential decrees¹³ in respect of the Deputy Prosecutor General and other top officials¹⁴. In particular, the authorities submit that appointments of the Deputy Prosecutor General and Deputies Chairman of the Anti-Corruption Agency and Agency for Financial Monitoring are carried out from among persons included in the Presidential Personnel Reserve of the leadership of the law-enforcement, special state bodies and civil defence authorities. To be included into the Presidential Personnel Reserve, employees must 1) meet the qualification requirements, including requirements for length of service, level of professional training, provided for the replacement of the proposed position; 2) correspond to the position held, including those recommended for enrolment in the Personnel Reserve or promotion to a higher position by the decision of the attestation commission; 3) have

¹³ Presidential Decree No. 290 of 31 July 2023. The text of the decree (in Russian) can be consulted under the following link : <https://adilet.zan.kz/rus/docs/U2300000290> . It appears, however, that the appointment procedures approved by this decree are classified "for official use only" and are therefore not publicly available.

¹⁴ Presidential Decree No. 828 of 29 March 2002. The text of the decree (in Russian) may be consulted via the following link: <https://law.apa.kz/sozdanie-akademii/%D1%83%D0%BA%D0%B0%D0%B7%D1%8B-%D0%BF%D1%80%D0%B5%D0%B7%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B0-%D1%81%D1%83%D0%BA%D0%B0%D0%B7-%E2%84%96828-%D0%BE%D1%82-29-%D0%BC%D0%B0%D1%80%D1%82%D0%B0-2002%D0%B3%D0%BE%D0%B4%D0%B0>

no disciplinary penalties at the time of sending the materials. The selection of candidates for the Presidential Personnel Reserve is determined by the Commission under the President on the basis of assessment of personal and business qualities, results of their performance and the decision of the attestation commission. With regard to the law-enforcement agencies, they also refer to Articles 33 and 33-1 of the Law “On the Law-Enforcement Service” (2011), noting that a number of leadership positions are filled through competitions, and that the list of such positions is determined by the head of each agency¹⁵.

31. Lastly, as regards the termination of office, the authorities clarify that the relevant provisions of the Law “On the Law-Enforcement Service” (Articles 79-82) are also applicable to the heads of the law-enforcement agencies.
32. GRECO takes note of the above information. GRECO emphasises that the present recommendation concerns the heads of various law-enforcement bodies and their deputies, that is top-level managerial positions. As to the term of office, GRECO observes that the situation remains unclear regarding the Deputy Prosecutor General and the Deputy Heads of the Anti-Corruption Agency and the Financial Monitoring Agency.
33. As regards the appointment procedures, GRECO points out that the legislative acts referred to by the authorities were already assessed in the Evaluation Report (notably, Presidential Decree No. 828 and the Law “On the Law-Enforcement Service”) and were found to be insufficient and lacking clarity (see paragraph 92 of the Evaluation Report). As concerns the new Decree No. 290 of 31 July 2023, GRECO did not have an opportunity to consult its text owing to its restricted classification. While the authorities provide some clarifications in this respect, notably regarding the process of selection and inclusion of candidates on the Presidential Personnel Reserve, GRECO considers that these provisions lack clarity regarding the requirements for candidates and transparency in the selection and appointment procedure.
34. In sum, the authorities did not report any action aimed at amending the relevant domestic legislation in order to address the concerns which prompted this recommendation. While opening more leadership positions for competitive recruitment is encouraging, GRECO underlines that this recommendation focuses on the top-level posts and the need to set the rules on the appointment and the termination of office for this specific category independently from political considerations. This has not been done.
35. GRECO concludes that recommendation iv has not been implemented.

Recommendations v and xx

36. *GRECO recommended ensuring that the procedure of registering statements from people reporting corruption to their employers is (i) clear and encouraging to those reporting corruption, including safeguards against retaliation provided to persons reporting in good faith, and (ii) that assistance and training is provided to employers tasked to take actions regarding the statements reported by their subordinates.*
37. *GRECO recommended that the general protection of whistle-blowers be improved in legislation and practice to include additional safeguards for those reporting corrupt practices in good faith. The new legislation should also establish liability for persons undermining the whistle-blowers’*

¹⁵ By way of example, the authorities submit that in January 2023, the Head of the Anti-Corruption Agency decided to include the position of a head of a territorial department on such a list.

protection process, and provide effective mechanisms, ensured by the State, to trigger this liability in practice.

38. The authorities of Kazakhstan acknowledge that among the main obstacles for citizens reporting possible instances of corruption are the lack of guarantees of their protection at workplace and the uncertainty of public officials as to the safeguards to their labour rights against the fear of losing jobs. Overall, the authorities recognise that effective legal instruments to protect those reporting corruption outside the criminal process are lacking.
39. In response to these shortcomings, the authorities report that, on 3 January 2023, legislative amendments were adopted to several pieces of legislation (Law no. 188-VII¹⁶). Most importantly, new provisions introduced in the Anti-Corruption Law (Articles 24-1, 24-2, 24-3 and 24-4) establish that persons reporting acts of corruption or otherwise facilitate the fight against corruption are entitled to State protection.
40. Further, in accordance with these provisions, any employment disputes involving whistleblowers are to be examined by a collegial body, with a mandatory participation of a representative of the competent anti-corruption body. No decision on the dismissal, transfer or imposition of disciplinary sanctions on a whistleblower can be taken without a recommendation of a collegial entity, with a mandatory participation of a representative of the anti-corruption body to ensure that the decisions taken in respect of whistleblowers are not tainted by any retaliatory element. The competent anti-corruption body is to be informed of the decision taken by the collegial entity within three days and, if it disagrees with the decision taken, it should notify the prosecution or labour inspection authorities of the violation of rights and legitimate interests of the employee within two days upon receipt of the decision. Such notification does not preclude the person concerned from appealing before a court. Similar guarantees are provided to those who report possible corruption through external channels, for instance, to competent anti-corruption bodies. The guarantees and protection measures are valid for three years from the date of the receipt of information on acts of corruption or the moment from which the person otherwise facilitated the fight against corruption.
41. In addition, the above amendments require the superiors of persons reporting acts of corruption, as well as other competent bodies, to conclude a non-disclosure agreement with the whistleblower and to ensure that the information about reporting remains confidential. To implement this provision, the Anti-Corruption Agency developed a Regulation on non-disclosure agreements¹⁷, which stipulates that a person intending to report an act of corruption should inform his/her superior of such an intention. Within 24 hours from this notification, the superior concerned is required to conclude a non-disclosure agreement with the employee concerned, upon signature of which report of an act of corruption is made. The whistleblower's superior is to submit the information received to the competent anti-corruption body and a further non-disclosure agreement is concluded in this respect. In 2023, the Anti-Corruption Agency disseminated information on non-disclosure agreements among its territorial branches, and a number of publications in this respect also appeared in the media. The Agency further designated the officials, at central and local levels, authorised to conclude non-disclosure agreements. As a result, some 40 such agreements have been signed so far.

¹⁶ Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Combating Corruption and Ensuring the Security of Persons Subject to State Protection" introduced amendments to the Criminal Code, Criminal Procedure Code, Labour Code, Law on Operative-Search Activities, Law on State Protection of Persons Participating in Criminal Proceedings, Law on State Legal Statistics and Special Records, Law on the Military Service and Status of Military Servants, Anti-corruption Law, and Law on Civil Service. The full text of amendments is available in Russian via the following link: <https://adilet.zan.kz/rus/docs/Z2300000188#z255>

¹⁷ Order no. 153 of 11 May 2023, accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2300032466>

42. By virtue of the above amendments, a breach of such non-disclosure agreement now carries criminal liability (Article 424, paragraph 1 of the Criminal Code). The amendments adopted on 3 January 2023 introduced further protection measures accessible to whistleblowers in the context of criminal proceedings aimed at ensuring their personal safety through relevant provisions (e.g. Criminal Procedure Code, Anti-corruption Law, Law on State Protection of Persons Participating in Criminal Proceedings etc.).
43. To encourage reporting of corrupt acts further, the authorities inform that on 29 August 2023, the Head of the Anti-Corruption Agency issued Order No. 270¹⁸. The Order sets out a system of pecuniary and non-pecuniary rewards for individuals who report acts of corruption. In addition, the authorities report that in June 2023 draft amendments to the Code of Administrative Offences were submitted to the Parliament with the aim to introduce administrative liability for failure to take action by whistleblower's superiors and competent authorities in response to a report of an act of corruption.
44. As to registration of complaints relating to acts of corruption in the context of criminal proceedings, the authorities refer to Article 23 of the Criminal Procedure Code (CPC) and the Order of the Prosecutor General No. 89 of 19 September 2014¹⁹. They also report that the Anti-Corruption Agency developed guidelines in order to facilitate the reporting process by individuals who witness corruption²⁰.
45. GRECO takes note of the information provided by the authorities. The legislative amendments adopted on 3 January 2023 represent tangible steps to recognise the value of information regarding corrupt acts provided by whistleblowers and accords them new protection measures, including the confidentiality applicable to information provided, as well as to their identity. The newly adopted legal provisions also provide a set of incentives for good-faith reporting and introduce protection measures not only in the criminal proceedings, but also in the employment context. A prohibition of taking disciplinary sanctions, dismissal or transfer to another position in respect of a whistleblower, without a recommendation of a disciplinary commission or other collegial body is another important safeguard in this respect. Overall, GRECO considers that the newly introduced legislative measures provide a sound basis for improving the position of persons reporting corruption in good faith.
46. That said, GRECO notes that a number of aspects of these two recommendations have not been, or have insufficiently been, addressed. As regards recommendation v, GRECO recalls that its first part aimed at addressing the lack of clarity of the procedures of registering information on possible corruption. While the procedures established for the prosecution authorities and the information materials for anti-corruption activists, pointed out by the authorities, have their value, they have no direct relevance to the procedures for reporting corruption at the workplace. GRECO's concern regarding the lack of clarity as to the processing of written statements submitted to superiors (the employer), *prior* to the authorities' decision to start a pre-trial investigation or not, does not appear to be addressed, as no due diligence requirements for the employers concerned have been

¹⁸ The text of Order No. 270 of 29 August 2023 on approval of the Rules for Encouragement of Persons Reporting a Corruption Offence or Otherwise Assisting in Combating Corruption is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2300033350>

¹⁹ On Approval of the Rules for Receiving and Registering a Statement, Report or Report on Criminal Offences and Maintaining the Unified Register of Pre-Trial Investigations, accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V14W0009744>

²⁰ In this connection, the authorities shared video material concerning the Anti-Corruption Volunteering project that was launched in August 2023.

stipulated in legislation. Likewise, nothing new has been added as to the applicable timeframes for the follow-up, except for the Law on Civil Service (Article 52, paragraph 3), indicating a one-month period, considered as being too long by GRECO at the time. It is crucial that the information contained in the report is transmitted in due time to the competent authorities. Further, GRECO observes, with respect to the second part of this recommendation, that guidance and training are of paramount importance to ensure the consistent and efficient processing of and follow-up to whistleblowers' reports by the employers, especially against the background of complex legislative amendments introduced only recently.

47. As regards recommendation xx, GRECO notes with satisfaction the considerable improvements introduced to the position of whistleblowers and safeguards provided to them, which now also go beyond criminal proceedings. In particular, GRECO considers that the systematic and substantive inclusion of an anti-corruption body in employment disputes involving a whistleblower is a weighty safeguard against retaliation. GRECO notes that the amended Anti-Corruption Law puts particular emphasis on banning decisions to dismiss, transfer or impose disciplinary sanctions on whistleblowers, unless so decided by a disciplinary commission, or other collegial body. The new wording of the Anti-Corruption Law also lists specific protection measures made available to persons reporting corruption in good faith, many of which are reflected in Labour Code and other relevant laws. At the same time, it should be kept in mind that retaliation can take many different forms. In this regard, GRECO observes that domestic law does not ban retaliation as such, nor does it provide for adequate sanctions for retaliators. The only safeguard against retaliation provided in the amended Anti-Corruption Law is the participation of a representative of the competent anti-corruption body, which is insufficient. While GRECO acknowledges that new remedies against retaliation have been made available to whistleblowers, it encourages the authorities to consider supplementing them, for example, by a possibility of seeking interim relief, access to an independent advice and free legal aid.
48. Overall, GRECO recognises the tangible steps taken by the authorities of Kazakhstan to facilitate reporting of corrupt acts and improve the protection of whistleblowers' rights and legitimate interests both in criminal proceedings, as well as in their relations with the employers. As some further steps are still necessary, GRECO will reassess the implementation of the above two recommendations, once more information is available in this regard, and once concrete examples of the effective implementation of the new measures in practice are available.
49. GRECO concludes that recommendations v and xx have been partly implemented.

Recommendation vi

50. *GRECO recommended that (i) coordination among all law enforcement authorities combating corruption be streamlined and enhanced, in particular to ensure efficient financial investigations; (ii) the database of bank accounts owned by the Tax Authority be directly accessible to the law enforcement, in particular the Anti-Corruption Agency and the Financial Monitoring Agency, with a view to detecting and tracing criminal proceeds more effectively.*
51. Regarding the first part of the recommendation, the authorities of Kazakhstan report that in accordance with the law "On the State Recovery of Illegally Acquired Assets"²¹, adopted on 12 July 2023, a separate agency was established within the Prosecutor General's Office to ensure,

²¹ The text of this Law is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/Z2300000021#z76>; See also a presidential decree No. 366 of 5 October 2023, regulating this issue, accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/U2300000366#z13>

inter alia, the coordination of activities of various State bodies in this area. Further, on 5 October 2023, the Asset Recovery Committee of the Office of the Prosecutor General was established as an authorised body for asset recovery, interacting with law enforcement agencies, special state bodies, organisations, and subjects of quasi-public sector by requesting, collecting and analysing information on illegal acquisition and/or withdrawal of assets, obtained in the course of criminal proceedings and operational and investigative activities. According to the authorities, by the end of 2023, assets worth around 1 trillion tenge (over €2 billion) were returned to the State. In addition, the authorities refer to methodological recommendations issued by the Prosecutor General in 2019 with a view to ensure uniformity of the practice of conducting financial investigations, mandatory for all the investigative authorities concerned. The authorities also refer to an order of the Prosecutor General (2019) and a Directive of his Deputy (2021) governing such investigations and envisaging interaction between various authorities in this regard. Finally, the authorities indicate that coordination of law enforcement and other State bodies involved in countering crime is carried out within the framework of the permanent Coordinating Council of the Prosecutor General's Office, composed of the Prosecutor General, heads of law enforcement agencies, the Chairman of the National Security Committee and the Minister of Justice.

52. As to the second part of the recommendation, the authorities submit that the Financial Intelligence Unit (FIU) of the Financial Monitoring Agency (AFM) has access to banking information (Article 50, paragraph 4, subparagraph 1-1 of the Law "On Banks and Banking Activity" of 31 August 1995). According to the authorities, the Anti-Corruption Agency may access banking information through the Financial Monitoring Agency on the basis of an interdepartmental joint order concerning exchange of information and documents relating to money laundering, the financing of terrorism and proliferation of weapons of mass destruction (adopted in 2021). The authorities further refer to the document with a restricted classification, dated 5 July 2023, which sets out the procedure of information exchange between the Prosecutor General's Office, the Anti-Corruption Agency and the Financial Monitoring Agency with regard to money laundering. It aims, in particular, to streamline and enhance coordination between the Agency, Prosecutor General's Office and the AFM FIU to ensure the effectiveness of financial investigations, as well as the prompt exchange of information. They further indicate that the Information Exchange System of Law Enforcement and Special Agencies also allows to obtain banking information.
53. GRECO takes note of the above information. As concerns the first part of the recommendation, GRECO observes that some steps have been taken to improve coordination of relevant law enforcement agencies. However, GRECO has not received sufficient information to allow it to assess in a more comprehensive manner the existing coordination mechanisms, or any further steps that may still be in the making. In particular, the only tangible measure taken after the evaluation report is the setting up of a dedicated agency under the Prosecutor General to coordinate the recovery of illicit assets. GRECO recalls that its recommendation is focussed specifically on the operational coordination, inter-agency case transfer, supervision and exchange of information. GRECO, therefore, invites the authorities to re-examine the domestic law and practice and proceed with the improvement of coordination, where so required.
54. As to the second part of the recommendation, GRECO notes the authorities' submission regarding the access to bank accounts provided to the Financial Monitoring Agency. Some information from the banks is said to be accessible to the Anti-Corruption Agency and other law-enforcement bodies through the exchange channels. While these steps go in the right direction, more information is needed on details and modalities of access to banking information provided to investigative bodies with competence of combating corruption (e.g. the extent of accessible data on bank accounts,

whether such access is conditional and limited to particular offences etc.) to enable GRECO to assess the present recommendation in a more comprehensive manner.

55. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii

56. *GRECO recommended ensuring systematic application in practice of the existing legal provisions regarding the investigative jurisdiction of corruption cases between the various law enforcement bodies, which give priority to those with anti-corruption specialisation.*

57. The authorities of Kazakhstan once again refer to the legal provisions assigning investigative jurisdiction over corruption cases to different law enforcement bodies (including Articles 187 and 193 of the CPC regarding the investigative jurisdiction of each agency). They report that, according to the analysis of criminal cases for 2021-2022 carried out by the Prosecutor General's Office and law enforcement authorities, the Anti-Corruption Agency conducted investigations in 66 % of corruption cases, while the remaining cases were dealt with by other law-enforcement bodies. Further, to clarify the procedure regarding transferring of cases between various law enforcement agencies, the Prosecutor General adopted Order No. 65 (21 February 2023) and the Directive (13 June 2023) on this subject. According to the authorities, such transfers can be required for case management reasons (case merger), or in order to ensure the confidentiality of information (for example, in the context of the use of covert investigative techniques). The observance of these provisions is said to be ensured by the Prosecutor General.

58. GRECO notes that while no amendments have been made to legislation determining investigative jurisdiction of law enforcement bodies regarding corruption offences, some regulatory and practical measures were taken by the authorities to clarify this jurisdiction and inform the law enforcement bodies of the applicable rules, including as regards case transfers. As regards the practice, the statistical information provided by the authorities is encouraging, for it suggests that the majority of such offences (66%) are investigated by the Anti-Corruption Agency. This goes in the right direction. However, the new rules adopted on this matter by the Prosecutor General's Office do not appear to give priority to investigating corruption offences according to anti-corruption specialisation. GRECO invites the authorities to regularly monitor the implementation of relevant rules and instructions and address any persisting inconsistencies in the assignment of investigations into corruption offences, giving priority to specialised anti-corruption investigative bodies, as required by the present recommendation.

59. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii

60. *GRECO recommended that training and specialisation of prosecutors and judges be enhanced as regards corruption offences, financial investigations and their links with other offences, such as money laundering and organised crime.*

61. The authorities of Kazakhstan report that the specialisation of judges of the Judicial Collegium for Criminal Cases of the Supreme Court has been introduced by Order of the Chairman of the

Supreme Court of 14 July 2023²². In accordance with this Order (document with restricted classification), six judges of the Supreme Court were designated to specialise in examining corruption offences. Training for judges and court staff in various fields of law is provided by the Academy of Justice. The training curriculum of the Academy includes topics related to corruption²³. The 2022-2023 curriculum also included various courses on corruption, some of which concerned specifically economic offences and organised crime. The authorities report that in 2022, some 463 judges of regional and district courts received training on anti-corruption topics.

62. As regards the prosecutors, the authorities indicate that there are groups of prosecutors specialised in corruption and economic offences within the Prosecutor General's Office and the territorial offices. Their primary role is to supervise the lawfulness of pre-trial investigation and prosecution in this type of cases. As concerns the specialised training, the authorities submit that the Academy of Law Enforcement Agencies created a special section to this end, which carries out continuous educational activities for prosecutors and trainee prosecutors. By way of example, the authorities submit that in 2022, advanced anti-corruption courses were attended by 290 trainees. A further 208 trainees received training on financial investigations and illicit asset recovery. In 2023, training courses were attended by 83 prosecutors specialised in corruption cases and 411 newly appointed prosecutors. The topics covered included combating money laundering, recovery of assets from abroad, conducting parallel investigations and the use of financial intelligence. Plans for 2024 include training and seminars on the afore-mentioned topics, as on the specificity of corruption offences and the identification of final beneficial owners. The Academy of Law Enforcement Agencies and the Anti-Corruption Agency also organised training seminars in cooperation with the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) of the OECD and the Council of Europe.
63. GRECO welcomes that targeted anti-corruption training is increasingly provided to judges and prosecutors. GRECO encourages the authorities to continue developing relevant educational programmes and to ensure that prosecutors and judges of *all* levels are actively and regularly involved. Further, GRECO welcomes the establishment of specialised groups within the prosecution authorities both in the Prosecutor General's Office and in the territorial offices. GRECO is also pleased to note the appointment of several judges of the Supreme Court as specialists in anti-corruption matters. That said, given that the majority of corruption cases are examined on the merits prior to reaching the Supreme Court, GRECO remains convinced of the importance of having specialised investigative judges and judges in regional and district courts.
64. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation ix

65. *GRECO recommended thoroughly revising the legal provisions on specific procedures limiting arrest/investigation/prosecution of certain officials, who de facto benefit from immunities from criminal proceedings, including by (i) clarifying their rationae, functional scope and duration, to ensure that they are limited to acts committed in the performance of official duties, during the term of office, and that they do not hamper or prevent the effective prosecution of corruption; and (ii) considering reducing the categories of persons currently subject to such procedures to the minimum required in a democratic society.*

²² Full title is "Order of the Chairman of the Supreme Court «On organizational issues of the Judicial Collegium for Criminal Cases of the Supreme Court of the Republic of Kazakhstan» № 6001-23-7-4/161".

²³ Such as "Anti-corruption policy of Kazakhstan and combating corruption crimes", "Prevention of corruption in the judicial system", and "Anti-corruption: national strategy and problems of its implementation".

66. The authorities of Kazakhstan provide an overview of domestic legislation regulating immunities from criminal prosecution of the officials. The authorities argue that domestic law regulates the procedure of lifting immunities to a sufficient degree. They refer to the practice of bringing criminal proceedings against judges to illustrate the effectiveness of the relevant legislative framework. Moreover, guidelines on lifting immunity have been developed to clarify the applicable criteria and procedure when deciding in such cases.
67. On 10 January 2023, the Constitutional Court of Kazakhstan ruled that the Law “On the First President of the Republic of Kazakhstan - Elbasy” should be recognised as null and void. On 13 January 2023, the Parliament repealed the aforementioned Law. Parliament noted that there is no constitutional and legal basis for regulating the status and powers of the former President at the level of a separate constitutional law. With this move, the former President would still benefit from the immunity granted by the Constitution to Presidents, but the particular provisions on the status of privileges of the former President and his family members under the Law on the First President (Article 3) are no longer in vigour²⁴.
68. The authorities consider that there is no further need to reduce the current list of officials benefitting from the immunity provisions, which, in their view, is more restricted than in some other GRECO member States.
69. GRECO takes note of the move reported to abolish the inviolability privilege of the former President’s family members by repealing the Law on the First President of Kazakhstan. This goes in the direction of the second component of the recommendation. However, there is no evidence that any further consideration has been paid to whether the current list of persons who are subject to specific procedures regarding their arrest/investigation/prosecution (i.e. the President, members of parliament, members of the Constitutional Council, the Prosecutor General, judges and election candidates for President and Parliament) should be reduced.
70. While guidelines (methodological recommendations) have been prepared to clarify criteria and procedures when deciding on requests for lifting immunities (see recommendation x), a thorough revision of the applicable legislative provisions, in order to vest the current system with more robust guarantees against misuse, is yet to occur. The system is the same that the one described in the Joint First and Second Rounds Evaluation Report which specific shortcomings were highlighted by GRECO (paragraphs 111-115).
71. GRECO concludes that recommendation ix has been partly implemented.

²⁴ Article 3. Immunity of the First President of the Republic of Kazakhstan – Elbasy, Law "On the First President of the Republic of Kazakhstan - Elbasy" (repealed)

The first President of the Republic of Kazakhstan - Elbasy has immunity. He cannot be held liable for actions committed during the period of his exercising the powers of the President of the Republic of Kazakhstan, and after their termination - related to the exercise of his status as the First President of the Republic of Kazakhstan - Elbasy . He may not be detained, arrested and kept in custody, searched, interrogated or personally searched.

Inviolability extends to all property owned by the right of private property to the First President of the Republic of Kazakhstan - Elbasy and members of his family living with him, as well as to the residential and office premises used by them, official vehicles, means of communication, correspondence, documents belonging to them. Immunity also applies to property owned by the fund of the First President of the Republic of Kazakhstan - Elbasy and other legal entities established by him.

No restrictions may be imposed on property owned by the right of private ownership of the First President of the Republic of Kazakhstan - Elbasy and members of his family living with him, as well as on the property of legal entities established by him. Bank secrecy and inviolability of bank accounts of the First President of the Republic of Kazakhstan - Elbasy and members of his family living with him are guaranteed.

Recommendation x

72. *GRECO recommended adopting guidelines with specific, objective and transparent criteria to be applied when deciding on requests for lifting of immunities in order to ensure that decisions are free from political considerations and based only on the merits of the request submitted.*
73. The authorities of Kazakhstan provide a detailed description of various procedures for lifting immunities of each category of public office-holders. They also report that the Anti-Corruption Agency has developed a Standard regulating the detailed procedure for decision-making in respect of the lifting of immunities (including deadlines and criteria) to be used as a methodological manual. The manual underwent a consultation process with all the State bodies concerned and awaits its formal approval by the Academy of Law Enforcement Agencies under the General Prosecutor's Office of the Republic of Kazakhstan. After receiving approval from the Academy, these methodological recommendations will be distributed to all law enforcement agencies for use in their work, as well as to the teaching staff and students of higher educational institutions in legal disciplines to prepare for service in law enforcement agencies.
74. GRECO welcomes the development of detailed guidance regarding the procedure and criteria to apply when examining requests for lifting of immunities, so that they do not hamper the effective investigation (particularly, preliminary investigations), and subsequent adjudication, of corruption offences.
75. Pending the effective adoption of the aforementioned guidelines, GRECO concludes that recommendation x has been partly implemented.

Recommendation xi

76. *GRECO recommended (i) strengthening the systems and controls for tracing criminal proceeds and identifying ultimate beneficial owners; (ii) considering reviewing the burden of evidence necessary, in connection with a conviction, to provide for better possibilities to use confiscation effectively in cases of corruption.*
77. The authorities of Kazakhstan report, as regards the first part of the recommendation, that following the legislative amendments of 1 and 12 of July 2023, new Articles 6-1 and 12-3 have been introduced in the Law on Combating Legalisation (Laundering) of Proceeds from Crime and Financing of Terrorism (hereinafter – the Anti-Money-Laundering Law)²⁵, paving the way to establishing a register of beneficial owners. The register is maintained and updated by the Financial Monitoring Agency, which ensures that the register is interlinked with databases of other State bodies and that the input provided by the latter, as well as financial monitoring data, are duly incorporated therein. The Financial Monitoring Agency developed relevant rules and regulations on the functioning of the Register²⁶. It is incumbent on legal entities to take the necessary measures to identify their beneficial owners, to provide the information on the latter to the Financial Monitoring Agency and to regularly update that information. Non-compliance with this obligation or provision of false information entails administrative liability (as per Article 214 of the Code of Administrative

²⁵ Accessible via the following link (in English): <https://adilet.zan.kz/eng/docs/Z090000191>

²⁶ Accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2300033464> ; <https://adilet.zan.kz/rus/docs/V2200029649>

Offences). Legal entities are also required to submit information on their beneficial owners during the state registration process²⁷. The authorities also point out that the property of public officials and their family members is subject to financial scrutiny (Article 8 of the Anti-Money-Laundering Law). Further, following the recent amendments to the Anti-Corruption Law, such officials are prohibited from opening or holding foreign bank accounts (Article 14-1 of the Anti-Corruption Law).

78. As for the second part of the recommendation, authorities point out that Article 11, paragraph 4 (to enter into force in 2027) of the Anti-Corruption Law as amended by Law [№ 188-VII](#) of 3 January 2023, provides, *inter alia*, for liability for the acquisition of assets not justified by the lawful income.
79. The authorities further refer to the law “On the State Recovery of Illegally Acquired Assets”²⁸ adopted on 12 July 2023, which targets persons holding positions of public responsibility, positions in State legal entities, quasi-public sector entities (State enterprises), as well as persons affiliated with them. It is incumbent on such persons to substantiate the legality of the assets subject to control by the competent authority.
80. In addition, in the framework of implementation of the Presidential Decree on measures to return illegally withdrawn assets to the State, the authorities are planning to introduce a possibility of civil confiscation, which will enable the State to terminate ownership rights on any unjustified income/property. Once in force, this measure can be applied at the request of the prosecutor’s office, if there are reasonable doubts about the legality of the sources of origin of assets. The authorities clarify that civil confiscation would not require the existence of criminal proceedings and will not be limited to corruption offences, while the burden of proof would fall on persons found in discrepancy of their income and expenses. The law establishes a threshold for its application: assets owned by a person or a group of affiliated persons equal to or exceeding 13 million monthly calculation index (MCI²⁹) (around USD 100 million in 2023). The proceedings for the recovery of illicit assets are governed by the provisions of the Code of Civil Procedure.
81. Further, the authorities refer to the gradual process of the generalisation of asset declarations and the strengthening of control over the income and expenditure of public officials. In accordance with this process, annual declarations of income and expenses will cover the entire population by 2026, and will be subject to checks and controls as of 2027. Failure to explain the difference in income and expenses will carry administrative liability (a fine in the amount of 90% of the discrepancy).
82. GRECO takes note of the above information, welcoming the setting up of the register of beneficial owners and the adoption of the law governing the State recovery of illicit assets. These are major steps towards the development of a functional system of tracing and confiscation of the corruption proceeds. GRECO is also pleased to note that concrete measures have been taken on the criminal, civil and administrative law fronts, to allow for a certain apportionment of the burden of proof to facilitate the investigation, and potential adjudication, of corruption cases.
83. GRECO concludes that recommendation xi has been implemented satisfactorily.

²⁷ The Rules on State Registration of Legal Entities are accessible via the following link (in English): <https://adilet.zan.kz/eng/docs/V2000020771>

²⁸ The text of this Law is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/Z2300000021#z76> ; The Presidential Decree No. 366 of 5 October 2023, on the measures for the implementation of the Law is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/U2300000366#z13>

²⁹ Monthly calculation index for 2023 was set at 3,450 KZT, or approximately €7.

Recommendation xii

84. GRECO recommended (i) taking targeted measures, including through the issuing of tailored guidance and training to accountants, auditors, notaries, and particularly, lawyers, in order to improve the situation in relation to reports of suspicions of corruption and money laundering to the competent authorities; and (ii) streamlining anti-money laundering legislation, particularly, by reviewing and amending the provisions which appear to create confusion about the relationship between a lawyer's duty of confidentiality and the requirement to report suspicious transactions.
85. Regarding the first part of the recommendation, the authorities of Kazakhstan report that in 2022 the Financial Monitoring Agency (AFM) launched a new web portal for subjects of financial monitoring (SFM) to facilitate the process of submission of reports on suspicious transactions³⁰. The portal provides training materials, including the guidelines designed for each specific category of SFM³¹. Further, it is specified that each SFM is responsible for organising the relevant training for its staff, in accordance with the rules and requirements approved by the Head of the Financial Monitoring Agency³². The authorities also refer to a number of training activities undertaken by the Agency, as well as by various professional associations in cooperation with the Agency (for example, the Union of Auditors, the Chamber of Notaries, the Chamber of Legal Consultants, etc).
86. Moreover, AFM initiated a proposal to include AML/CFT testing questions as part of the certification of persons applying to engage in advocacy and notary activity, as well as accreditation of their knowledge of the legislation when obtaining a license and certification. This proposal has now been approved. AFM carries out, on a permanent basis, work on improvement of financial literacy of FMS in the field of AML/CFT, including in respect of lawyers. Thus, in October 2023, AFM employees held an explanatory event on "International standards in the field of combating money laundering and financing of terrorism" for members of the Almaty Regional Bar Association. The meeting was attended by over 200 lawyers. During the discussion with the participants of the large-scale event, AFM staff provided answers to questions of interest to lawyers. It should be noted that the meeting was also attended by representatives of the Financial Monitoring Academy, who spoke in detail about the Academy's activities in the field of training, programmes, and courses to prepare subjects of financial monitoring for testing.
87. Regarding the second part of the recommendation, the authorities submit further clarifications to explain that the submission of reports pursuant to the Anti-Money-Laundering Law does not amount to a breach of legal privilege or other secrecy obligations, as per Article 11, paragraph 6³³ of the

³⁰ <https://websfm.kz/>

³¹ The guiding documents and handbooks cover, in particular, the following topics:

- identifying beneficial owners of legal entities for SFM operations related to terrorist financing and proliferation of weapons of mass destruction;
- identifying politically exposed persons;
- international standards, typologies, and suspicious transactions related to money laundering;
- unified model of the financial profile of a foreign terrorist fighter in the EAG region;
- risks and vulnerabilities of money laundering/terrorist financing related to gold;
- money laundering and terrorist financing;
- applying a risk-based approach for accountants.

³² Accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2100023952>

³³ "The provision of information, data and documents by the subjects of financial monitoring to the authorised body for the purposes and in the manner prescribed by this Law shall not be a disclosure of commercial, banking, or other secrets protected by law, a violation of the conditions for collecting, processing personal data, as well as other information protected by law."

Anti-Money-Laundering Law and Article 37, paragraph 4³⁴ of the Law “On Advocate’s Practice and Legal Assistance”. In addition, lawyers are not exempted from general criminal liability for complicity in the commission of a criminal offense, including money laundering under the provisions of Article 28 of the Criminal Code.

88. On the basis of international experience of FATF, Methodical Recommendations for lawyers, legal consultants, and other independent specialists on legal issues in the sphere of combating legalisation (laundering) of proceeds of crime and terrorism financing were issued. The aforementioned Recommendations describe suspected suspicious signs of ML/TF, which may be useful for lawyers and legal consultants and other independent legal professionals, taking into account the amendments made to the norms of the current legislation on AML/CFT and lawyers' activity and legal services. The authorities emphasise that in the Recommendations it is underlined that in Kazakhstan the attorney-client privilege is not absolute. Therefore, domestic lawyers are obliged to report about their suspicions in relation to clients, in which case professional ethical norms would not be violated. Regarding the submission of information, data and documents to the authorised body, all FMS (and their representatives), regardless of the results of the report, shall not bear responsibility provided for by the laws of the Republic of Kazakhstan, as well as civil-law contract.
89. Today, 196 lawyers are registered in the AFM system. Thus, in comparison with 2021, the coverage has increased by 0.36%. No report on suspicious transactions has been sent by lawyers to the AFM, which is explained by the fact that it is a sector exposed to low risk where suspicious transactions are minimised. This fact is further confirmed in the latest report of the [Eurasian group on combating money laundering and financing of terrorism \(EAG\) on Kazakhstan](#), which was adopted in June 2023. The report underlines that lawyers in Kazakhstan are aware of their obligation to conduct customer due diligence (CDD). However, due to the specificity of lawyers' activity, the lawyers representing the sector within the field mission did not have any clients who would apply for services to conduct transactions provided for by the AML/CFT Law.
90. GRECO takes note of the above information. With respect to the first part, it welcomes the launch of the new Internet portal, which is intended to become a one-stop shop for subjects of financial monitoring. GRECO also notes with satisfaction the cooperation pursued by the Financial Monitoring Agency with professional associations with a role in preventing money laundering and other financial crimes. Numerous initiatives have also been taken to inform these professionals of the existing rules and procedures for implementing them. The authorities are encouraged to continue developing materials and increasing outreach to relevant professional groups. While these are welcome developments, GRECO recalls that one of the underlying concerns of this recommendation was the need to improve the situation in relation to the obligation of reporting suspicious financial activity by lawyers specifically, as well as extensive exceptions provided in legislation. GRECO notes that the statistics submitted by the authorities offer no information on any targeted action in respect of lawyers.
91. With respect to the second part of the recommendation, although positive measures have been taken (including through the development of Methodological Recommendations and the carrying out of multifaceted awareness raising measures) to provide further guidance to legal professions in this respect, no legislative amendments have been made to clarify the relationship between a

³⁴ “Submission of data and information to the authorized body for financial monitoring in accordance with the [Law](#) of the Republic of Kazakhstan "On counteracting of legalization (laundering) of incomes received by criminal way and financing of terrorism" shall not be a disclosure of advocate’s secret.” <https://adilet.zan.kz/eng/docs/Z180000176>

lawyer's duty of confidentiality and the requirement to report suspicious transactions. Therefore, this part of the recommendation has not been complied with.

92. GRECO concludes that recommendation xii has been partly implemented.

Recommendation xiii

93. *GRECO recommended that necessary legislative and practical measures be taken to improve public access to information at all levels of public administration by (i) providing training to public officials and employees concerned, including information officers, in particular those operating at local level, and (ii) ensuring that the legislation includes pertinent sanctions for unlawfully restricting access to information.*
94. Regarding the first part of the recommendation, the authorities of Kazakhstan report a number of practical measures taken to improve access to information. In particular, following the amendments to the Law on Access to Information³⁵ adopted on 30 December 2020, the Ministry of Culture and Information was tasked with monitoring and intersectoral coordination in the field of access to information. All institutions qualified as information holders within the meaning of the above law (Article 8) were required to create a structural unit or to appoint an officer in charge of internal monitoring and coordination with a view to providing adequate access to information (Article 9, paragraph 2-1). This requirement also applies to local government bodies. Further, relevant training³⁶ was provided to the appointed officers, as well as other employees of local executive bodies. Thus, over 500 employees of local government bodies completed an online course³⁷ launched by UNESCO. Moreover, the Commission on Issues of Access to Information³⁸ examines reports by local government bodies and issues recommendations³⁹. In addition, the Ministry of Culture and Information submits annual reports⁴⁰ to the Head of State regarding access to information, which contain proposals for improvements. Finally, the openness (transparency) of State bodies is reviewed on a yearly basis, as part of the regular effectiveness assessment⁴¹. Where an evaluated State body scores low or displays deteriorating scores, this may trigger the responsibility of its leadership, notably political appointees (as per paragraph 73 of Presidential Decree No. 954 of 19 March 2010, as amended on 29 May 2023⁴²).
95. As regards the second part of the recommendation, the authorities report that a new draft law⁴³ proposing amendments to several laws, including the Law on Access to Information, was

³⁵ Accessible via the following link (in English): <https://adilet.zan.kz/eng/docs/Z1500000401>

³⁶ Such as internships within the Ministry of Information and Social Development; on-site seminars and online events held by the Ministry staff; regular training sessions for civil servants and local officials organised by international organisations (UNDP, UNESCO, OSCE).

³⁷ <https://www.unesco.org/en/access-information-laws/course-ati-laws?hub=370>.

³⁸ See paragraph 163 of the Evaluation Report.

³⁹ Some of the reports of meetings of the Commission on Issues of Access to Information may be consulted via the following links (in Russian):

<https://www.gov.kz/memleket/entities/mam/press/news/details/672704?lang=ru>

<https://www.gov.kz/memleket/entities/mam/press/news/details/647720?lang=ru>

<https://www.gov.kz/memleket/entities/mam/documents/details/501468?lang=ru>

<https://www.gov.kz/memleket/entities/mam/documents/details/393893?lang=ru>

https://fb.watch/qexD8g_4ck/?mibextid=w8EBqM

<https://fb.watch/qexJOXTKGk/?mibextid=w8EBqM>

⁴⁰ 2023 Report : https://online.zakon.kz/Document/?doc_id=33345184&pos=1;-16#pos=1;-16

⁴¹ See Section 4 of the Assessment Methodology accessible via the following link (in Russian):

<https://adilet.zan.kz/rus/docs/V2100022599>

⁴² Accessible via the following link (in Russian): https://adilet.zan.kz/rus/docs/U100000954_

⁴³ Accessible via the following link (in Russian): <https://legalacts.egov.kz/npa/view?id=14546237>

developed. The main proposals of the draft include reinforcing the role of Ministry of Culture and Information by entrusting it with the State control functions in the sphere of access to information; specifying in an exhaustive manner the legitimate grounds for restrictions⁴⁴ on access to information; extending administrative liability⁴⁵ on account of unlawful restriction of access to information to breaches of the statutory requirements regarding the publication of information on the E-gov⁴⁶ web portal and on the Internet sites of the institutions concerned; access to information stands on the premises of the relevant institutions, access to open meeting of collegial authorities and reports by the heads of central executive bodies, akims and heads of national higher educational institutions⁴⁷; access to information by disabled persons⁴⁸. The draft law also intends to introduce the principles of openness and proactive dissemination of information. The authorities indicate that the supervisory powers of the Ministry under the draft amendments encompass the possibility to react both to specific violations and a general task of preventing violations of access to information. The authorities also point to considerable reputational risks for officials in cases they are found in violation of legislation and rules on access to public information, despite of not increasing the amounts of administrative fines at this stage. On 21 February 2024, the draft has been approved by Parliament in the first reading.

96. GRECO takes note of the above information. As to the first part of the recommendation, GRECO notes with satisfaction that a number of training activities are being organised for the officers responsible for access to information and, generally, for the staff of the local government bodies. GRECO finds it encouraging that the situation with regard to access to information, with emphasis on local government bodies, is regularly monitored by the Ministry of Culture and Information and the specialised Commission. This part of the recommendation has been met.
97. As for the second part of the recommendation, significant legislative amendments are in progress with some notable upgrades. However, GRECO recalls that the recommendation is focussed on the need to introduce pertinent, sufficiently dissuasive sanctions for unlawfully restricting access to information. In this regard, GRECO observes that Article 456-1 of the Code of Administrative Offences provides for fines ranging from 20 to 50 MCI (about €141 to €354) in respect of the breaches committed by officials. It further notes that while the draft amendments currently in the making intend to broaden the scope of the offence of the unlawful restriction of access to information, no consideration appears to be given to the effectiveness of the existing sanctions. In this connection, GRECO also notes that the number of administrative cases of this type remains very low (six cases in 2022). GRECO therefore urges the authorities to pursue improving the relevant liability framework further so that pertinent sanctions for such violations are in place and are effectively applied, where warranted.
98. GRECO concludes that recommendation xiii has been partly implemented.

Recommendation xiv

99. *GRECO recommended developing and adopting comprehensive legislative and practical measures, ensuring public transparency and meaningful participation of the general public,*

⁴⁴ The restrictions included in the amendments proposed to Article 5 of the Law are as follows: protection of the constitutional order, public order, human rights and freedoms, public health and morals.

⁴⁵ Under Article 456-1 of the Code of Administrative Offences.

⁴⁶ <https://egov.kz/cms/en>

⁴⁷ Under Articles 12, 13, 14, 16, 17 of the Law on Access to Information.

⁴⁸ Required by the new Article 17-1 included in the draft amendments.

including relevant non-state actors, in respect of consultations relating to the decision-making process of public bodies.

100. The authorities of Kazakhstan report several legislative and practical measures implemented or initiated during the reporting period. In particular, the new Law on Public Control⁴⁹ was adopted on 2 October 2023, which entitles citizens and non-commercial organisations (except for the religious ones) to exercise public control over the activities and decision-making of State bodies, local self-government authorities, quasi-public sector (State enterprises), as well as other entities exercising related functions in the public interest. Such control may be carried out through public consultations, expertise or monitoring (Articles 10-12). The authority or entity subject to public control is required to consider and give a motivated reply in respect of each recommendation received. Failure to do so can be challenged before the competent authorities and a breach of the present law entails liability (Articles 13 and 15). The Law on Public Control will enter into force on 4 April 2024. Further, in December 2023, the Law on Public Associations was amended⁵⁰ to allow for the establishment of an association by a minimum of three persons (the previous threshold being at least 10 persons). The amendment is intended to facilitate the development of the NGO sector, in line with the international standards.
101. In October 2023, the Code of Administrative Proceedings and Procedures was amended⁵¹ to include a section on online petitions⁵². The new section establishes the time-limit for joining a petition (six months) and the requisite minimum of signatories⁵³ to trigger its mandatory examination by the authority concerned. It further sets out the procedural requirements for the examination of petitions⁵⁴ and provides a list of issues that are excluded from the scope of petitions⁵⁵. The time-limits for the examination of petitions are set at 40 days (for central bodies) and 20 days (for local bodies). The decision given by the authority concerned is amenable to review⁵⁶.
102. Further, the Law on Access to Information was also amended to provide for access to, and online broadcasting of, open meetings of State bodies (Articles 10 and 13). The authorities also report that the legislative framework governing the cooperation between State and NGOs has been further

⁴⁹ Accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/Z2300000030>

⁵⁰ See Article 10 as amended by Law No. № 49-VIII of 21 December 2023, accessible via the following link (in Russian): https://adilet.zan.kz/rus/docs/Z960000003_#z19

⁵¹ Law № 31-VIII of 2 October 2023 (entry into force on 4 April 2024). Russian: <https://adilet.zan.kz/rus/docs/Z2300000031>

⁵² The according to the procedure for consideration of petitions and decision-making under the amended Code of Administrative Proceedings and Procedures, petitions may result in an administrative act repealing the challenged administrative or other act/decision.

⁵³ 50,000 for petitions within the purview of the Government; 2 % of the population of an administrative-territorial unit, i.e. an oblast or a city of republican significance, for petitions within the purview of the local elected authorities; 1 % of the population for petitions within the purview of the local executive authorities; lower thresholds for smaller administrative-territorial units, as per Articles 90-3 and 90-4.

⁵⁴ For example, thorough motivation of the decision given; public consultations with the participation of the author of the petition or his/her representative; institution of a commission or a working group including the author, representatives of the state bodies concerned, members of Parliament and/or maslikhats, as well as public associations; analysis of comments to the petition; analysis of the relevant economic, sociological or statistical data and comparative study of the relevant international materials.

⁵⁵ Such as constitutional order, administrative-territorial system and territorial integrity, state emblem and state language, delivery of justice, state security and national defence, nomination of public officials, amnesty, amendments to the laws on criminal, civil and administrative proceedings, as well as matters entailing breaches of fundamental rights, public order, health and morals.

⁵⁶ Based on a complaint submitted in accordance with Chapter 13 of the Administrative Procedural Code, entitled "Appeal Procedure".

developed, notably, with respect to project-based grant awards⁵⁷. A new draft law amending several legal acts⁵⁸ is being considered by Parliament as of November 2023. It envisages, in particular, to allow for public consultation in respect of draft laws submitted by members of Parliament, while draft laws developed by the President would remain outside such a procedure. According to the amendments proposed, draft laws submitted by MPs are to be published on the specialised web portal⁵⁹. It is also proposed to set the duration of the consultation procedure at 10 working days⁶⁰. Finally, on 29 December 2023, the Standards on Openness of Information Holders⁶¹ and the Rules on Access to Meetings of Information Holders⁶² have been adopted and will enter into force on 4 April 2024.

103. As to the practical measures, the authorities report that according to the latest surveys, the representation of civil society on the composition of public councils⁶³ has increased to 86% of their members⁶⁴. Furthermore, public councils are reported to examine draft legal acts more frequently⁶⁵, and relevant training has been organised to facilitate their work in this respect. Reference is also made to the Civil Forum of Kazakhstan, which takes place every two years and is seen by the authorities as an important platform for exchanges between State bodies and civil society. Further, a new consultative-advisory body entitled “National Quryltai” under the President of Kazakhstan was established by the Presidential Decree No. 930 of 14 June 2022 and includes representatives of civil society. Its role consists essentially in elaborating proposals of social value and providing a platform of dialogue between State bodies, political parties and non-governmental sector. Finally, the Open Government portal⁶⁶ has been further developed to include more information and to facilitate public discussion of draft normative acts. In this regard, the authorities point out that public discussions on the Open Government portal are held at the stage preceding the development of

⁵⁷ Law on the State Social Commissioning, State Commissioning of Strategic Partnerships, Grants and Awards for Non-governmental Organisations, as amended on 4 July 2022. The text of the law, in English is accessible via the following link: <https://adilet.zan.kz/eng/docs/Z050000036>

⁵⁸ The draft law contains amendments to the following legal acts: Entrepreneurial Code; Administrative Procedure Code; Code on the Health of the People and the Health Care System; Environmental Code; Law on Education; Law on Access to Information; and Law on Legal Acts. The text of the draft law is accessible via the following link (in Russian): <https://www.parlam.kz/ru/mazhilis/post-item/36/17269>

⁵⁹ The link to the portal is as follows: <https://legalacts.egov.kz/>

⁶⁰ In accordance with Article 20, paragraph 2 of the Law on Legal Acts (accessible via the following link, in English: <https://adilet.zan.kz/eng/docs/Z1600000480>), the minimum duration of public consultation in respect of the draft acts concerning rights and obligations of citizens is 10 or 15 working days, depending on the nature of the act. Regarding draft laws concerning entrepreneurial matters, the duration of public consultations is set at three working days, in accordance with the relevant Rules (accessible via the following link, in Russian: <https://adilet.zan.kz/rus/docs/V1500012517#z11>).

⁶¹ The text of the Standards is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2300033860>

⁶² The text of the Rules is accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2300033861>

⁶³ The setting up of public councils is carried out in accordance with the provisions of the Law and the Model Regulation on Public Council, approved by the Order of the Minister of Information and Public Development on 26 February 2021 (accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/V2100022264>). The setting up of public councils and the approval of their composition is carried out through a two-stage selection procedure, the first stage being the creation of a working group for the approval of public councils and the second stage – selecting members of public councils. The composition of public councils is approved by heads of relevant state bodies at the national level and by secretaries of maslikhats at the local level. The working groups examining candidates for membership on public councils should consist of no more 1/3 of representatives of state bodies and at least 2/3 of representatives of non-profit organizations and civil society representatives. The process of selection of members of public councils can be attended by observers which, in the authorities' opinion, ensures transparency and openness. The selection of candidates is carried out by open voting and decisions are taken by the majority of votes.

⁶⁴ At present, there are 258 public councils in Kazakhstan, including 35 at the republican level and 223 at the local level. The composition of 38 public councils consists of representatives of civil society only.

⁶⁵ According to statistical information provided by the authorities, in 2023, public councils at national and local levels reviewed a total of 6,781 draft regulatory legal acts and issued some 4,835 recommendations as a result.

⁶⁶ The link to the Open Government Portal is as follows: https://egov.kz/cms/ru/articles/communications/open_gov

draft legislation, and then again at the stage of the draft legislation. The time limit established for such discussions is not less than 15 working days, which is extended to a further 10 working days if more than 100 comments are received. In addition to Open Government portal, public consultations may be held in the framework of working groups established by authorities developing legislation, and working groups in Parliament which may include representatives of the civil society. Draft legislation can also be submitted for consideration to the Public and Expert Councils

104. GRECO takes notes of the information submitted by the authorities. Regarding the legislative measures, GRECO considers that the adoption of the legislation on public control and petitions has a potential to play a significant role towards enhancing participation of citizens and civil society in decision-making. Bearing in mind that most of the new legislation is not yet in force, GRECO looks forward to receiving additional details in due course (including statistics) on how these new procedures operate in practice. In this regard, GRECO invites the authorities to clarify to a wider public the available remedies in respect of the breaches of this legislation and the decisions taken by the authorities in response to petitions or recommendations. GRECO also notes that, at this stage, the implementation of these laws should be closely monitored so as to avoid an overly broad interpretation of the provisions on the issues exempted from the scope of public petitions and consultations.
105. As regards other reported legislative amendments in the making, GRECO notes with interest the proposal to open up the drafts prepared by MPs to such consultations. While appreciating this development, GRECO notes that draft laws submitted by the President are intended to remain outside the public consultation process. GRECO does not *a priori* see any justification for applying a different approach depending on the author of the legislative initiative and invites the authorities to take this point into account when reviewing the draft amendments in question.
106. GRECO also draws the authorities' attention to the insufficient duration of public consultations and recalls that the Evaluation Report (paragraph 222) emphasised the need to allow for a reasonable time in this respect. The proposal to set such a duration at 10 working days would not provide for sufficient time for meaningful input from public consultations. Further, different time limits are indicated in Article 20, paragraph 2 of the Law on Legal Acts and in other relevant acts (three working days for draft laws on entrepreneurial matters). The authorities may wish to harmonise all the existing timeframe envisaged for public consultations, while ensuring that they comply with the "reasonable time" recommendation. New provisions of the Law on Public Control do not offer any improvement as regards the time limits, as they establish even shorter timeframe for public discussions (announcing public discussion three days prior to conducting it, as stipulated in Article 10 of the Law).
107. As for practical measures, GRECO appreciates the developments concerning the composition of public councils and their reported increased involvement in the reviewing of draft legislation. GRECO invites the authorities to enhance the visibility of the impact of these consultations on draft legislation and will re-assess the implementation of this recommendation in light of additional information as regards the follow-up given by the authorities to the issues raised during public consultations. Overall, more consistent practical examples are needed to demonstrate that the general public, non-State media and civil society actors have been genuinely included in the decision-making process of public bodies in a systematic manner.
108. GRECO concludes that recommendation xiv has been partly implemented.

Recommendation xv

109. GRECO recommended (i) establishing merit-based rules and transparent procedures for the recruitment and promotions for all positions in the public administration and (ii) ensuring that pertinent rules on integrity in the public service apply to all public sector officials/employees, including political appointees and employees recruited on labour contracts.
110. As regards the first part of the recommendation, the authorities of Kazakhstan report that qualification requirements in respect of political appointees are regulated by the Presidential Decree No. 485 of 31 December 2020. A new draft presidential decree, currently reviewed by the State bodies concerned, envisages extending these requirements to further positions (for example, deputy heads of State bodies). Regarding civil servants in Corps “B”, the authorities submit that recruitment and promotions are merit-based in so far as vacant positions are filled, respectively, through general and internal competitions. Heads of State enterprises are also appointed through competitions. A new competitive selection format is currently being piloted by the Civil Service Agency in a number of State bodies⁶⁷ and local authorities. This format provides for an entirely digitalised selection process, which is anonymised and conducted online (including the interviews with the top three candidates). All the selection stages (including the final one) are automated, and the transparency is ensured by an independent proctoring system. If successful, it is envisaged to expand this selection format to all government bodies as of 2024. Further, in December 2022, new rules were adopted regulating the recruitment of senior managers and teachers of State educational institutions through competition procedure, which the authorities consider as an important step, given that 75 % of civil servants work in the education sphere.
111. The authorities further clarify that some categories of civil servants can be appointed outside the competition procedure, for example lawyers, economists, accountants, doctors, paramedical and junior medical staff, social workers etc. Their overall number is said to be insignificant and the low level of salaries of these categories lead to a consequently high staff turnover, requiring the filling of vacant positions in a speedy manner, without recourse to lengthy competition procedures. Competition is further not required for the appointment of technical personnel of public bodies and employees of the quasi-public sector. The authorities submit that transparency is ensured through the publication of vacancy notices on the relevant web portals and the specification of vacancy requirements in normative acts (for example, ministerial orders). The authorities further point out that contrary to what paragraph 224 of the Evaluation Report suggests, technical support personnel do not perform any tasks of civil servants.
112. Regarding the second part of the recommendation, the authorities refer to Law no. 188-VII of 3 January 2023, introducing amendments to the Labour Code and the Law on the Civil Service, in particular, the ban on employment of persons who were dismissed on account of expenditure-income discrepancy in the past three years, and the termination of employment on account of expenditure-income discrepancy⁶⁸. The above amendments concern civil servants and employees of the quasi-public sector. The authorities do not deem it appropriate to subject technical support personnel to similar restrictions. In addition, the authorities refer to several provisions in the domestic legislation⁶⁹, banning the recruitment/appointment of persons convicted by court for

⁶⁷ A fully digitalised selection and recruitment system is being implemented as of 1 March 2023 in five state bodies (Agency for Public Service, Ministry of Transport, Ministry of Industry and Construction, Ministry of Trade and Integration, Akimats of Akmola region and Shymkent city). A gradual introduction of this selection system is envisaged in all state bodies during the period of 1 February 2024 to 31 December 2025.

⁶⁸ These provisions will enter into force in 2027.

⁶⁹ By way of example, the authorities refer to Article 50(4) of the Criminal Code stipulating a lifetime ban on holding positions in the civil service, judiciary, local self-government bodies, the National Bank and its agencies, financial market regulatory bodies, state organizations and quasi-public entities. They also point out that appointment of persons to political public office

corruption offences to positions in civil service, judiciary, public institutions and organisations and quasi-public entities.

113. GRECO takes note of the clarifications and developments reported by the authorities. Regarding the first part of the recommendation, GRECO observes that a lot remains to be done to introduce transparent and merit-based procedures both as regards recruitment and promotions. GRECO recalls that the emphasis of the recommendation was placed on the need to eliminate uncertainty and to elaborate a uniform approach covering all positions in the public administration. This has not been done. While GRECO appreciates the adoption of the new rules on competitive recruitment of the public education managers and staff, it observes that this sectoral approach does not advance the uniformity goal any further. GRECO invites the authorities to continue exploring the digitalised automated selection procedures. Moreover, GRECO is concerned over the high staff turnover in several categories of civil servants (lawyers, accountants, etc) owing to low salaries, which makes these jobs unattractive for qualified people. GRECO emphasises that, along with decreasing the quality of services provided by these civil servants to the public, such a situation makes these categories particularly vulnerable to corruption risks. GRECO therefore urges the authorities to take determined and systemic action to remedy this situation.
114. As regards the second part of the recommendation, GRECO underlines that its focus was on the need to establish a homogenous integrity regime applicable to all sectors and all categories of employees of the public administration, including political appointees and employees recruited on labour contracts. This goes beyond the ban on employment of persons convicted of corruption. GRECO notes that the Presidential Decree No. 485 does not provide any integrity requirements for political appointees, even though it appears that the ban on appointments of persons having previously committed corruption offences would also apply to political appointees. The reported amendments of 3 January 2023, while certainly important from the anti-corruption perspective, do not provide for a harmonised and uniform rules on integrity in the public administration. GRECO calls on the authorities to take a more targeted action in this respect.
115. GRECO concludes that recommendation xv has been partly implemented.

Recommendation xvi

116. *GRECO recommended that the existing Code of Ethics be complemented with more detailed guidance for employees and officials of public administration on situations they may come across in their daily practices in relation to integrity standards and their conduct in respect of the public (e.g. regarding reactions to gifts and other advantages, reporting of corruption and the handling of requests for access to public information).*
117. The authorities of Kazakhstan inform that a Code of Ethics was developed for each of the following three categories: 1) civil servants, 2) staff of law enforcement agencies, civil protection authorities and state courier service; 3) staff of state enterprises and agencies. Regarding civil servants, a new Code of Ethics was approved by Presidential Decree No. 814 of 22 February 2022. The new Code sets basic standards and requirements in a general manner. It is not intended to regulate specific issues arising in the context of the prevention of corruption, the receipt of gifts, etc. In this respect, the authorities refer to the relevant provisions of the Laws on Civil Service and on Access to Information (see paragraphs 160-162, 180 and 195 of the Evaluation Report). A Practical

is subject to the Law "On Public Service", banning the employment of a person having committed a corruption offense (Article 16, paragraph 3, subparagraph 8). Similar restrictions are said to be provided for in the Labour Code, Constitutional Law "On Elections", the laws on Law Enforcement Service, Special State Bodies, Enforcement Proceeding, the National Bank etc.

Commentary to the Code was developed to provide detailed guidance regarding specific situations was presented on 26 January 2024 at the meeting of the Commission on Ethics, with the representatives of the Presidential Administration, members of Parliament and members of the Public Council of the Agency for Public Service in attendance. The Commentary provides several specific examples of public servants' ethical conduct, including those related to situations of conflict of interest. The Agency for Public Service also developed a manual entitled "Ethics and norms of behaviour of a public servant", which provides a brief instruction for public servants based on situational examples, including the non-acceptance of gifts and other services. On 20 February 2024, the Chairman of the Agency of Public Service approved the Model Work Plan of the Commissioners for Ethics for 2024, which provides for advisory assistance to civil servants on issues of compliance with the requirements of the Code of Ethics and legislation in the field of civil service, covering service discipline, ethics, social guarantees of civil servants of their families, termination of civil service, financial control measures, anti-corruption restrictions, conflicts of interest, criminal and administrative responsibility for offences and violations. The authorities further submitted that draft Guidelines on Ethics and Code of Conduct for Civil Servants are being developed by the Academy of Public Administration. The guidelines provide examples of specific situations concerning misuse of administrative resources, unprofessional and disrespectful conduct at work and inadequate conduct outside working hours, as well as nepotism. It is planned to complement the draft with sections on conflicts of interest, use of social media and the role of the Ethics Commissioner. Finally, Standard methodological recommendations for the employees of the Anti-Corruption Service have also been developed.

118. As regards the employees of law-enforcement agencies, the authorities clarify that the applicable standards and requirements are set both in the above-mentioned Code of Ethics for Civil Servants and the Code of Ethics developed specifically for this category of persons, approved by Presidential Decree No. 81 of 2 January 2023. The Code of Ethics for law enforcement bodies contains requirements to prevent corruption, avoid conflicts of interest and nepotism. This Code is likewise of a rather general nature. As to the staff of State enterprises and agencies, the authorities submit that a specialised Code of Ethics for this category was approved by Decree No. 342 issued on 28 August 2020 by the Minister of Labour and Social Protection, which was amended on 14 November 2023 to include, *inter alia*, a requirement to report any inducement to commit a corruption offence, to return gifts or to transmit them to a competent authority, to avoid misuse of office, not to accept or offer any of gifts or advantages (to subordinates or officials) and not to resort to nepotism. This Code is also formulated in general terms.
119. GRECO notes that, in addition to the adoption of a new Code of Ethics for Civil Servants, the authorities have embarked on the development of sectorial codes targeting the specific ethical dilemmas that different categories of persons may face in their daily routines. The approval of the Practical Commentary to the Code of Ethics, as well as other guiding documents containing examples of behaviour guided by principles of integrity and ethical conduct are positive developments, demonstrating the authorities' resolve of setting the right tone in public administration. GRECO encourages the authorities to ensure the effective implementation of the newly adopted public ethics and integrity standards in practice.
120. GRECO concludes that recommendation xvi has been implemented satisfactorily.

Recommendation xvii

121. *GRECO recommended (i) introducing induction training on integrity, ethics and anti-corruption measures to all employees and officials of public administration, based on the Code of Ethics as*

amended, in order to provide necessary guidance and risk mitigation; (ii) strengthening the independence, competence and capacity of the ethics commissioners to ensure that they are able to autonomously implement their tasks, without undue pressure.

122. The authorities of Kazakhstan report, in relation to the first part of the recommendation, that the integrity induction training has been made available for civil servants of Corps “B” and that the relevant courses are included in the regular continuous training programme for civil servants provided by the Academy of Public Administration under the President of Kazakhstan. Training provided by the Academy allocates four academic hours to the topic of “Ethics and integrity”, whereas the time allocated to the same topic during advanced training varies between eight and 40 academic hours. The authorities submit that in 2021-2022 over 7,500 civil servants attended retraining courses in the Academy and its branches, and a further 4,497 in 2023. The authorities specify that first-time entrants to the administrative civil service of corps “B” are provided four academic hours of training on “Ethics and Integrity”, while first-time entrants to managerial positions undergo six academic hours of training on “Anti-corruption Culture and Integrity”, which encompasses ethical norms and standards of civil service, anti-corruption behaviour, integrity, assessment of personal qualities, formation of anti-corruption culture in the state apparatus, transparency of public administration, observance of objectivity and fairness. Further, the Anti-Corruption Agency launched a new online training programme for civil servants, which is concluded by a certificate, subject to successful passing of a final test. The programme consists of three modules aiming at “understanding of anti-corruption legislation”, “implementing of anti-corruption behaviour” and “mastering anti-corruption tools”. The authorities indicate that at present some 150 thousand users already have access to this online course. As of the second quarter of 2024, the course will be accessible to employees of quasi-public entities. According to the authorities, this training is mandatory for newly recruited employees of the civil service and its implementation is assessed by the Agency on a quarterly basis. The programme aims to reach a total of 1,2 million civil servants (newly recruited and already in service).
123. As regards the second part of the recommendation, the authorities report that the Regulations on Ethics Commissioner were amended by Presidential Decrees No. 814 of 22 February 2022, No. 239 of 5 June 2023 and No. 286 of 17 July 2023. In accordance with the amendments, a number of State bodies are to appoint an official to act full-time as an ethics commissioner. In some other State bodies, advisors to an akim or to a head of State body are to act as ethics commissioners. By virtue of the Decree No. 239 above, ethics commissioners are to be reassigned to first heads of relevant State bodies, which, in the authorities’ view, is intended to strengthen their independence. Further, the authorities inform that pursuant to the Presidential Decree No. 286 of 17 July 2023, cooperation between ethics commissioners and the Anti-Corruption Agency has been established on a normative basis and the procedure for interaction between the Anti-Corruption Agency and ethics commissioners was approved⁷⁰ in December 2023. The authorities also indicate that the Civil Service Agency developed methodological recommendations to facilitate the work of ethics commissioners.
124. GRECO takes note of the information provided by the authorities. As regards the first part of the recommendation, GRECO welcomes the development of induction and in-service training on integrity, ethics, and anti-corruption measures, which aims to ultimately reach all public officials. Practical steps are in progress to ensure that the induction courses are made available to all categories of staff of public administration, such as the launching of the new online training programme by the Anti-Corruption Agency, which aims to reach civil servants of different categories, but this is yet to be confirmed in practice. Further, GRECO underlines the need to

⁷⁰ By Joint Order of the Chairman of the Anti-Corruption Agency and the Chairman of the Agency for Public Service.

systematically include the new Code of Ethics of Civil Service and its complementary guidance (see paragraph 119 above) into the awareness-raising initiatives, particularly dedicated training on their contents for civil servants. GRECO is satisfied that this part of the recommendation has been complied with and invites the authorities to continue their efforts in this respect.

125. As regards the second part of the recommendation, GRECO is not persuaded that the reported amendments are capable of enhancing the functional independence of ethics commissioners, jeopardised precisely due to their subordination to the heads of the respective State bodies (see paragraph 229 of the Evaluation Report). While clarifying interaction and cooperation between ethics commissioners and the Anti-Corruption Agency is a step in the right direction, no new measures appear to have been taken to provide ethics commissioners with supporting staff, particularly when they serve on a part-time basis (which was the norm rather than the exception at the time of the on-site visit) to increase their general capacity to act.
126. GRECO concludes that recommendation xvii has been partly implemented.

Recommendation xviii

127. *GRECO recommended to ensure that a more efficient system of preventing, detecting and managing conflicts of interests in public administration be established by refining legislation on conflicts of interests and incompatibilities, and systematically applying effective deterring measures for such practices, including sufficiently dissuasive sanctions and invalidation of legal and other acts concluded in situations of conflict of interests.*
128. The authorities of Kazakhstan report that to establish in law the procedure for identifying and resolving conflicts of interest in the civil service and in the quasi-public sector, the Anti-Corruption Agency developed a draft Law on Amendments and Additions to Certain Legislative Acts of Kazakhstan on Anti-Corruption Issues. This draft law envisages supplementing the Anti-Corruption Law with a new chapter 2-1 entitled “Conflict of Interest”. According to the draft, a conflict of interest is defined as “a contradiction between a person's personal interests and his/her official powers”. The draft law also aims to clarify the concept of “personal interest”⁷¹ and envisages establishing the inadmissibility of conflicts of interest and the obligation of persons holding a responsible public office, persons authorised to perform State functions and those equated to them to prevent conflicts of interest and take measures to prevent and resolve them. The scope of application of the current prohibition to exercise official duties in case of a conflict of interest will be supplemented by further specific situations⁷². The draft law further provides the modalities and ways for identifying of conflicts of interest⁷³, the procedure for resolving them, as well as their legal consequences. In addition, the draft law envisages that civil servants submit to their respective Personnel Service declarations of personal interests upon taking up employment and transfer to another position.
129. In relevance to this recommendation, the authorities point out that according to the draft, failure to prevent and resolve conflicts of interest can be the ground for invalidating acts, contracts or other

⁷¹ This notion is defined “a benefit and (or) advantage that a person may receive and (or) receives for himself and (or) for his close relatives, spouse, relatives, in-laws, as well as for other persons with whom he has relations of property or non-property nature as a result of the performance of his official duties”.

⁷² These include prohibition of officials' participation in the development, discussion or decision-making or otherwise influencing decisions causing a conflict of interest; using their official position for personal interests; and taking advantage of a previously held position for personal benefit.

⁷³ For instance, in the course of reviewing declarations of personal interests; conducting external and internal analysis of corruption risks or anti-corruption monitoring; considering requests from persons or other information on conflicts of interest, as well as internal acts of state bodies or organisations; and inspections and audits.

decisions taken in cases of established conflicts of interest, upon request of interested persons to abolish such documents/decisions, addressed to the relevant State body. It will also be possible to have such documents/decisions invalidated by court. Supervision over the implementation of measures to prevent conflicts of interest will be entrusted upon ethics commissioners and the Anti-Corruption Compliance Service, and in their absence, the Personnel Service of State bodies concerned. The draft is currently undergoing parliamentary consultation.

130. GRECO takes note of the information provided by the authorities. It acknowledges that legislation is under way to regulate the detection, prevention and management of conflicts of interest in a more structured manner. The draft legislation, if adopted as described, has a potential to address the concerns underlying this recommendation. As the draft is before Parliament, but has not been adopted yet, GRECO cannot consider this recommendation as implemented more than partly.
131. GRECO concludes that recommendation xviii has been partly implemented.

Recommendation xix

132. *GRECO recommended to ensure that clear rules on declarations of assets and interests by public officials be established, which should include provisions on disclosure of assets and interests, systematic verification of declarations, and deterrent sanctions in case of irregularities.*
133. The authorities of Kazakhstan report that as of 2026, once the obligation to submit annual declarations of income and expenses is applicable to all citizens of Kazakhstan (universal declaration), Article 11 of the Anti-Corruption Law regarding the publication of declaration information by public persons (political civil servants, civil servants of corps “A”, members of Parliament, the Commissioner for Human Rights, judges, persons performing management functions in quasi-public sector entities) will enter into force. All declarations will be subject to annual monitoring as part of desk control once declarations for 2022 have been submitted (deadline – 15 September 2023)⁷⁴. The authorities clarify that the rules and procedure for drawing up and submitting declarations under forms No. 250 and No. 270 were approved by the Minister of Finance in 2020 and 2021 respectively. Desk reviews of declarations mainly aiming to establish compliance with the tax legislation are being carried out by the tax authorities. As a result of these reviews, by February 2024, some 118 thousand individuals were notified of non-submission of tax returns, of which 63 thousand notifications have been resolved. Failure to submit declarations in a timely manner resulted in 25,621 warnings and 22 fines.
134. As regards sanctions for breaches of rules regarding declarations of interests by public officials, the authorities refer to the Code of Administrative Offences, particularly, Article 272 of the Code (failure to submit, incomplete submission, submission of false information, which carries a warning for the first-time violation, and an administrative fine of 15 MCI (about €106) for repeat violation) and Article 275 (concealment of taxable items, carrying a fine of 200% of the amount of taxes). Further, the draft Law on Amendments and Additions to Certain Legislative Acts on Anti-Corruption Issues (mentioned in paragraph 78 above) aims to introduce liability for the discrepancy between the expenses of civil servants and their income (unjust enrichment), carrying a fine of 90% of the excess value of property over income exceeding 1000 MCI (about €7,084), which should enter into

⁷⁴ According to statistical information provided by the authorities, in 2021, some 576 thousand people submitted declarations of assets and liabilities (form No. 250.00). In 2022, declarations of income and property (form No. 270.00) were submitted for the first time by 576,8 thousand persons and in 2023, as part of the second stage of universal declarations, 2,128 thousand people submitted declaration of assets and liabilities, while some 605,3 thousand persons submitted a declaration of income and property for the first time.

force on 1 January 2027. Finally, the authorities submit that information constituting tax secret can be made available to law enforcement agencies upon request, authorised by an investigating judge or prosecutor. The FIU of the Agency for Financial Monitoring has full online access to the information systems of the State Revenue Committee, including information on declarations of individuals, thus providing the opportunity to check declarations of assets and liabilities, as well as declarations of income and property in accordance with the requirements of the Anti-Corruption Law.

135. GRECO takes note of the information provided by the authorities. It would appear that legislative and practical measures are being taken in several directions of relevance to this recommendation. In respect of rules on declarations of asset and liabilities, GRECO recalls⁷⁵ that as of 1 January 2021, civil servants and other persons authorised to perform State functions were to submit declarations of assets and liabilities to the State revenue authorities by means of the form No. 250⁷⁶, no later than 15 July 2022 (on paper), and 15 September (electronically), whereas starting from 1 January 2022, the above-mentioned persons were to submit annual declarations of income and property by means of the form No. 270⁷⁷. It would appear that rules are also in place to facilitate submission of declarations by relevant categories of people.
136. The mechanism for verification of declarations is mainly limited to desk review of compliance with tax legislation, which may be adequate for verifying the timeliness and general consistency of information contained in them, but risks being insufficient for in-depth verification of declarations of public officials, which are the subject of the present recommendation. While GRECO notes that a significant number of late filing of declarations resulted in warnings, and some led to fines, the text setting out the modalities of desk-checks of declarations has not been provided. More thinking is required regarding the methodology that will be followed to select and/or prioritise declarations for verification. The guidelines for tax authorities on the detection of suspicions of corruption, issued in September 2023 (described in paragraph 166 below), may also be of relevance in this regard. Further, for the verification of declarations submitted by public officials to be meaningful, the methodology should be coupled with the responsible authority(ies) capacity to perform this task, bearing in mind a particularly large number of declarations that will have to be processed once the system is fully operational. At present, GRECO received no information as to any measures taken to provide the authorities responsible for verification of declarations with adequate human and financial resources, as well as technical means, to ensure their efficient functioning.
137. As for sanctions, GRECO recalls that Article 11, paragraph 8 of the Anti-Corruption Law Anti-Corruption Law envisages administrative and disciplinary liability for violation of declaratory obligations by public servants (as noted in paragraph 236 of the Evaluation Report). Regarding administrative sanctions, the authorities refer to Articles 272 and 275 of the Code of Administrative Offences envisaging a warning and monetary fines for breaches. These provisions were already in place at the time of the evaluation. Therefore, the situation remains the same as it was at the time of the adoption of the Evaluation Report and new deterrent sanctions for breaches regarding declarations of assets and liabilities will only enter into force as of 2027 (see paragraph 78).
138. Overall, some promising initiatives are in the pipeline, and desk-checks of declarations have been initiated. However, other important aspects of the recommendation, such as adequate in-depth checks of declarations submitted by public officials, capacity of the authorities responsible for verifications, and deterrent sanctions for any irregularities have not been addressed. It follows that

⁷⁵ See, in particular, paragraph 235 of the Evaluation Report.

⁷⁶ Entitled "Declaration of assets and liabilities of natural persons".

⁷⁷ Entitled "Income and assets of natural persons".

the present recommendation cannot be considered as implemented more than partly.

139. GRECO concludes that recommendation xix has been partly implemented.

Recommendation xxi

140. *GRECO recommended that additional legislative and practical steps be taken to prevent corruption in relation to public procurement and public investment procedures including by providing adequate remuneration of responsible officials, a more rigorous supervision mechanism for the eligibility criteria, detection and prevention of conflicts of interest and rigorous implementation of contracts and the possibility to nullify contracts in situations of conflicts of interest.*
141. The authorities of Kazakhstan report several legislative and practical measures already taken, and still in the making. In particular, on 1 July 2022, a new procurement procedure using a rating-point system has been introduced, allowing to automatically determine the winner of the procurement competition on the basis of rating of suppliers by combining price and quality criteria, without the participation of the competition commission. Starting from 1 January 2022, a framework agreement can be used in public procurement, based on the calculation of the life cycle cost of purchased goods, works and services. The authorities also indicate that individual responsibility has been introduced in respect of persons deciding to carry out public procurement from a single source through a direct conclusion of a contract, and priority is given to implementation of competitive procurement methods. Further, to minimise corruption risks, the criterion of having work experience in the supply of goods and provision of certain services (with the exception of technical supervision services) has been removed. In addition, the Law on Procurement of Individual Entities of the quasi-public Sector⁷⁸ came into force on 1 January 2022, providing for a unified procedure for procurement of entities from this sector by analogy with public procurement. Rules⁷⁹ for conducting desk controls by auditing and financial control agencies were amended, introducing hearings of public procurement participants on draft responses to complaints and draft notifications on elimination of violations.
142. The authorities further inform that a new draft Law on Public Procurement has been developed, which stipulates restrictions on participation in public procurement for persons found guilty of corruption offenses. The draft Law also proposes to introduce public control in areas such as construction works and involve public councils of State and local executive bodies. To simplify procurement processes, the authorities envisage making them fully automatic, reduce participation of tender and auction commissions, further develop electronic store and enhance the use of framework agreements in procurement competitions. The draft Law is currently undergoing parliamentary consultation.
143. With regards to the possibility of cancelling contracts concluded in a situation of conflict of interest, the authorities refer to the draft Law on Amendments and Additions to Certain Legislative Acts on Anti-Corruption Issues, referred to in paragraph 112 above, which envisages such possibility (the draft Law was to be submitted to Parliament in November 2023 – *updated information already requested above*).
144. To address the issue of corruption prevention involving public-private partnerships (PPP) a number of amendments to the Law on Public-Private Partnership were adopted on 30 December 2022. In particular, competent State bodies of the relevant industry and local executive bodies were

⁷⁸ Accessible via the following link (in Russian): <https://adilet.zan.kz/rus/docs/Z2100000047#z218>

⁷⁹ Accessible via the following link (in Russian): <http://adilet.zan.kz/rus/docs/V1500012599#z6>

authorised to approve lists of socio-economic tasks allowing the implementation of only those private initiative PPP projects that correspond to the priorities of the industry and the region. To ensure a balanced distribution of risks between public and private partners, co-financing of PPP projects has been limited to no more than 30% of the expected investment only for PPP projects with investments exceeding 1,500,000 MCI (about €10,6 million). A principle of transparency and accessibility of information has also been introduced, which entails making public the main articles of PPP agreements. The authorities further enumerate several provisions of different legal acts relating to the conclusion of PPPs, rules of implementation of PPP projects, cancellation of PPP agreements and termination of contracts, which were already in place at the time of the adoption of the Evaluation Report.

145. As regards the very low remuneration of civil servants⁸⁰ involved in the processing of procurement procedures and their inherent exposure to corruption risks, the authorities submit that as of 1 January 2022, a new remuneration system has been introduced in central state bodies, whereby salary grades are determined in accordance with functional blocks of civil servants in question (main, assisting and auxiliary, with the highest salaries paid to the “main block” officials). It is specified that employees performing functions in the field of public procurement and PPPs have been allocated to the main category of positions and therefore receive higher pay. To reduce the risks of corruption further, large procurements are carried out centrally through single organiser (for central state bodies - the Committee of the Ministry of Finance, in local executive bodies - authorised divisions of local akimats). Finally, the authorities indicate that since the introduction of new remuneration system in 2022, official salaries of civil servants increased on average by 1.9 times and that the level of remuneration for civil servants, including those implementing PPP policies, significantly improved.
146. GRECO takes note of the information provided by the authorities. They demonstrate the authorities’ awareness that public procurement represents a sector of particular corruption risk in Kazakhstan, and their resolve to address these risks. While a considerable number of initiatives are being taken, for the time being they remain fragmented, and little evidence is available from practice as to their efficiency. More specifically, GRECO recognises the value of an automated processing of applications by Information Technology-supported systems, at least in their initial phases, in procurement competitions. However, it fails to see how this measure ensures effective supervision of eligibility criteria. The increase of remuneration for civil servants responsible for conducting procurement procedures and awarding contracts is encouraging and could decrease corruption risks, provided that new salaries are adequate to their responsibilities. New legislation is under way to introduce a possibility of cancelling procurement contracts concluded in the presence of conflicts of interest, but it has not yet been adopted. Finally, practical steps are being taken to safeguard PPP contracts from corruption, but most of the rules in this respect remain unchanged. Overall, pending further necessary steps, GRECO can consider this recommendation as implemented only to some extent.

147. GRECO concludes that recommendation xxi has been partly implemented.

Recommendation xxii

148. *GRECO recommended (i) taking appropriate measures to strengthen the controls in the registration system of legal persons, in particular, with regard to the identity of the persons behind a legal*

⁸⁰ Low remuneration was also mentioned in relation to Recommendation xv among the main reasons for a very high turnover among some professionals in the civil service in general (lawyers, economists, accountants, doctors, paramedical and junior medical staff and social workers) as per paragraph 111 above.

person, its real purpose, as well as any other pertinent information necessary for registration, including in relation to subsequent updates and changes; and (ii) establishing a register of beneficial ownership.

149. The authorities refer to the establishment of the register of beneficial ownership and the detailed measures reported in paragraph 77 above. Moreover, the authorities indicate that the process of registration of private business entities is fully automated through the portal «Electronic Government». Information on registered legal entities is automatically sent to the information systems of state revenue and statistics bodies, which have up-to-date data on all registered legal entities. Integration and interaction with the state databases «Legal Entities» and «Individuals» is ensured: in the automatic mode the founders (*head*) are checked for legal capacity (*limited legal capacity*), death, unknown, announcement of the deceased, as well as for the submission of invalid identity documents. Currently, the State Database «Legal Entities» is integrated with 34 information systems of state bodies.
150. As already said, GRECO welcomes the establishment of a register of beneficial ownership, in line with the second component of the recommendation. This is a key accomplishment. GRECO is also pleased to note that measures of both a legislative and practical nature have been developed to strengthen the control in the registration system of legal persons with regard to the identity of the persons behind the legal person. However, the first part of the recommendation had a broader scope. GRECO recalls that it had emphasised the need for strengthening the powers of the registration authorities to verify a number of important elements, such as information on the identity of the founder, the purpose of the establishment, the origin of the founding capital etc, as well as to perform any subsequent checks so as to ensure that the initial registration data are up to date. GRECO further underlined that the existing automated procedures would benefit from the consideration of the information available from other sources and, particularly, from closer cooperation with tax authorities (see paragraphs 283-284 of the Evaluation Report). GRECO therefore calls on the authorities to follow up on this part of recommendation xxii.
151. GRECO concludes that recommendation xxii has been partly implemented.

Recommendation xxiii

152. *GRECO recommended introducing legal provisions allowing for the possibility to establish bans on holding executive positions in legal persons in cases of convictions for serious corruption offences.*
153. The authorities of Kazakhstan report that the Anti-Corruption Agency conducted consultations in this respect with the Ministry of Justice, the Prosecutor General's Office, the Ministry of the Interior, the National Security Committee, as well as the National Chamber of Entrepreneurs "Atameken". In view of the authorities, such a ban would run counter to the right to choose work freely and the freedom of entrepreneurial activity, may entail negative risks for business activity, both enshrined in the domestic legislation (notably, Article 5 of the Labour Code and Article 5 of the Entrepreneurship Code). In addition, the authorities refer to various legal provisions prohibiting the employment in law enforcement bodies of persons who previously committed a corruption offence⁸¹ and allowing courts to impose in their judgments on criminal cases, as an additional sanction, a ban on holding a certain position addition or engaging in certain activities⁸²The authorities also submit that important initiatives are in the pipeline towards establishing a more stringent liability of

⁸¹ Articles 26 and 139 of the Labour Code, Article 6 of the Law on Law enforcement Service.

⁸² Article 50 of the Criminal Code and the Normative Resolution of the Supreme Court of 25 June 2015 No. 4 "On some issues of imposing criminal punishment".

legal entities for corruption offences through amending the Code on Administrative Offences⁸³. Finally, the authorities inform that the new draft Law “on Public Procurement”, provides for amendments restricting the right to participate in ongoing public procurement if a potential supplier and/or its manager(s), founder(s) or major shareholder has previously committed a corruption offence. The draft is currently undergoing parliamentary consultation.

154. GRECO takes note of the information provided by the authorities and welcomes the provision made in the draft Law on Public Procurement on debarment from public procurement for persons convicted for corruption offences. This is a step in the right direction to meet the overall goal of recommendation xxiii, i.e. ensuring high standards of general trust and integrity in business activities (paragraph 285 of the Evaluation Report). The authorities should be given credit for this move. The proposed amendments are undergoing parliamentary consultation and need to materialise in practice.
155. Furthermore, the recommendation called for the introduction of a ban on individuals convicted for serious corruption offences to hold executive positions in legal persons. In this regard, the authorities may usefully consider extending the existing disqualifications under Article 50 of the Criminal Code to persons seeking executive positions in the private sector.
156. GRECO concludes that recommendation xxiii has been partly implemented.

Recommendation xxiv

157. *GRECO recommended adopting the necessary legislative measures in order to establish adequate liability of legal persons for corruption offences and to provide for effective, proportionate and dissuasive sanctions in this respect.*
158. The authorities of Kazakhstan report that following numerous consultation and coordination initiatives among State bodies, professional associations and the general public, the draft amendments to the Code of Administrative Offences are undergoing parliamentary consultation. The draft envisages, in particular, to amend Article 678 so as to increase the sanctions for active bribery in the public sector (notably by establishing fines ranging from 20 to 60 times the amount of a bribe, by analogy with Article 367 of the Criminal Code). The authorities also submit that the limitation period for administrative liability of legal entities will be extended from three to five years. Moreover, the draft now covers lack of supervision or control by a natural person, who has a leading position within the legal person that has made possible the commission of the offence. As to the criminal liability of legal persons, the authorities clarify that the introduction of such liability would not reconcile with the concept of *corpus delicti* established in the domestic legal order, which requires personal culpability, non-existent in case of legal persons.
159. GRECO takes note of the information provided by the authorities regarding the legislative process under way to address the issue of liability of legal persons for corruption offences through amendments to the Code of Administrative Offences (Article 678). GRECO acknowledges the upgrades proposed regarding corporate liability in respect of active bribery in the public sector, including by increasing the relevant sanctions and the applicable statute of limitations, as well as by providing for liability for lack of supervision or control. This is a step in the right direction, which is currently being discussed by Parliament. Having said that, GRECO notes that the proposed amendments, when adopted, would only provide for corporate liability in respect of active bribery in the public sector.

⁸³ Relevant draft amendments are reported to have been submitted to Government on 1 September 2023.

160. GRECO concludes that recommendation xxiv has been partly implemented.

Recommendation xxv

161. *GRECO recommended explicitly prohibiting in legislation tax deductibility for “facilitation payments”, bribes or other expenses linked to corruption offences.*

162. The authorities of Kazakhstan stress that current legislation does not allow for tax deductibility of facilitation payments. Even so, and in order to comply with recommendation xxv, an amendment has been tabled to explicitly introduce a ban on tax deductions for expenses recognised as a bribe and/or other illegal material remuneration. This amendment forms part of a more comprehensive package for the adoption of the new Tax Code, which is currently undergoing parliamentary consultation and is expected to be adopted in 2024.

163. GRECO welcomes that draft legislation, currently undergoing parliamentary consultation, provides for an explicit prohibition of tax deductibility for facilitation payments, as recommended.

164. Pending the adoption of the relevant provision, GRECO concludes that recommendation xxv has been partly implemented.

Recommendation xxvi

165. *GRECO recommended that the tax authorities pay greater attention to the problem of corruption, in particular, through the development of appropriate directives or guidelines, as well as specific and regular training on the detection of suspicions of corruption offences and their reporting to the competent law enforcement authorities.*

166. The authorities of Kazakhstan report that they are in the process of introducing universal declaration of assets. This is being done through a staged procedure⁸⁴. In this context, on 11 September 2023, the Ministry of Finance issued guidelines (methodological recommendations) for tax authorities on the detection of suspicions of corruption and their reporting to the competent authorities. The tax authorities are instructed to scrutinise the following aspects: expenditure-income discrepancies, failure to submit an asset declaration or submission of an incomplete or inaccurate declaration, assets held in foreign banks abroad, activities incompatible with the office held (for example, entrepreneurship), as well receipt of unaccounted funds from third parties (for example, gifts or rewards). The information collected is to be treated as classified and to be transferred to the competent local anti-corruption body. The guidelines were widely disseminated among the tax authority’s staff.

167. Further, the authorities submit that various tax control mechanisms have recently been developed within the framework of the gradual introduction of the universal system of asset declarations. They refer to the Action Plan for the detection and reporting of suspicions of corruption adopted on 1 November 2022. As a follow-up to the Action Plan, a monitoring algorithm was developed in order to detect transactions of natural persons receiving income from business activities.

⁸⁴ Stage 1 – declarations are submitted by civil servants and their spouses (from 2021); Stage 2 – employees of state institutions and the quasi-public sector, as well as their spouses (from 2023); Stage 3 – managers and founders (participants) of legal entities, individual entrepreneurs, as well as their spouses (from 2024); Stage 4 – the remaining category of individuals (from 2025).

168. Moreover, targeted activities were carried out by the Agency for Financial Monitoring to make tax authorities aware of money-laundering, tax evasion and fraud offences and to report their suspicions and findings to the competent law enforcement authorities. Cooperation protocols have been intensified in this regard, including at territorial level.
169. Regarding training of tax authorities, training plans, including of an advanced curricula on anticorruption matters, are approved annually and regular activities are also ensured. Accordingly, a Plan of Measures to Combat Corruption of the Training and Methodological Centre of State Revenue Committee is currently running for 2024. The Plan provides for thematic seminars and training lectures for employees of tax authorities (possibly inviting a representative of the Anti-Corruption Service), including on the identification of suspected corruption offences and reporting them to the competent law enforcement authorities (on the topic "Prevention of corruption offences"). Outside of this Plan, regular training is provided to tax authorities' employees in territorial subdivisions via videoconference, or in person, on the topics of identification of suspicions of corruption. Moreover, the Ministry of Finance's guidelines (methodological recommendations) for tax authorities on the detection of suspicions of corruption and their reporting to the competent authorities were brought to the attention of all units of the State Revenue Committee and relevant training conducted on their contents.
170. GRECO welcomes the measures taken to raise awareness of tax authorities on corruption-related matters, including through the development of guidelines and the provision of systematic training.
171. GRECO concludes that recommendation xxvi has been implemented satisfactorily.

Recommendation xxvii

172. *GRECO recommended (i) that a minimum period of time for keeping accounts in private business be established by law, and (ii) reviewing and strengthening the applicable sanctions for account offences in order to ensure that they are effective, proportionate and dissuasive.*
173. Regarding the first part of the recommendation, the authorities of Kazakhstan clarify that the retention period of five years for business documents and accounting records is specified in the Order No. 263 of the Acting Minister of Culture and Sports of Kazakhstan of 29 September 2017⁸⁵ (as per paragraphs 271-273 of the Order). In response to this recommendation, the Ministry of Finance has recently placed these rules on its website⁸⁶. Information on the normative and established period of storage of accounting documents for the non-governmental sector is additionally posted on the [website of the Committee on Archives and Documentation Management of the Ministry of Culture and Information of the Republic of Kazakhstan](#), as well as on the [information website of the Service for Accountants "Accounting"](#).
174. The authorities further indicate that the retention periods for accounting records in respect of various categories of taxable or tax related items are stipulated in Article 193 of the Tax Code⁸⁷ and must be no less than five years.
175. As regards the second part of the recommendation, the authorities report that consultations are underway with all the relevant state bodies with regard to increasing the sanctions provided for in

⁸⁵ Accessible via the following link (in English): <https://adilet.zan.kz/eng/docs/V1700015997>

⁸⁶ Accessible via the following link (in Russian): <https://www.gov.kz/memleket/entities/minfin/documents/details/494379?directionId=3716&lang=ru>

⁸⁷ Accessible via the following link (in English): <https://adilet.zan.kz/eng/docs/K1700000120>

Articles 239 and 276 of the Code of Administrative Offences (CAO). In particular, as regards Article 239, it is proposed to set the fine range at 200 to 750 MCI (about €1,416 to €5,313), depending on the size of the enterprise, and at 400 to 1500 MCI for repeat offences. As for Article 276, it is proposed to bring the fine range at 50 to 75 MCI (about €354 to €531), depending on the size of the enterprise, and at 50 to 150 MCI (about €354 to €1,062), for repeat offences. Consultations are currently under way to decriminalise the offence set out in Article 241 of the Criminal Code concerning the liability of a natural person (since it does not provide for the sanction of imprisonment) and to tighten its requirements through administrative law (notably through more stringent provisions in Article 239 of the CAO, including in relation to the applicable sanctions, as detailed above). It is foreseen that the proposed amendments will be adopted in September 2024.

176. GRECO takes note of the information provided. Regarding the first part of the recommendation, GRECO is satisfied to see that the domestic rules provide for retention periods and have been published. As for the second part of the recommendation, GRECO takes note of the ongoing consultations to increase the level of fines for account offences. The current proposals are yet to materialise.
177. GRECO concludes that recommendation xxvii has been partly implemented.

III. CONCLUSIONS

178. **In view of the above, GRECO concludes that Kazakhstan has implemented satisfactorily or dealt with in a satisfactory manner four recommendations contained in the Joint First and Second Round Evaluation Report. Of the remaining twenty-three recommendations, twenty-one have been partly implemented and two have not been implemented. More specifically, recommendations viii, xi, xvi and xxvi have been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations i, ii, v-vii, ix, x, xii-xv, xvii-xxv and xxvii have been partly implemented. Recommendations iii and iv have not been implemented.**
179. Kazakhstan received a substantial number of recommendations in the Joint First and Second Evaluation Round. Clearly, they reflect immense tasks to accomplish fully in only 18 months. GRECO is encouraged to see that combating corruption remains a high priority on the political agenda of the country, as confirmed by ongoing legislative and institutional measures taken in the course of the reporting period. The Kazakhstani authorities have initiated action on a large majority of the recommendations, even if only a few could be considered as fully complied with at this stage. The ambitious system of universal declarations of assets, property and liabilities is gradually being introduced and covers all public servants, including politically appointed officials. A separate unit in the Anti-Corruption Agency was established – the Prevention Service – tasked with the compliance with anti-corruption rules and restrictions has been set up. The authorities' efforts to strengthen controls for tracing criminal proceeds and the setting up of a register of beneficial ownership are also commendable. Further, a dedicated web portal for subjects of financial monitoring has become operational to facilitate reporting of suspicious transactions, and guidelines for tax authorities to detect suspicions of corruption, within the ambit of asset declarations, have been adopted. In addition, induction training for civil servants is gradually made available, and a targeted online training programme has been developed by the Anti-Corruption Agency. Finally, the Supreme Court and the Prosecutor General's Office have enhanced specialisation for adjudicating and investigating corruption offences.
180. Having said that, the majority of the recommendations require a more determined action by the authorities. Broad analysis and research independent from the State is still needed to generate a more accurate picture of systemic risks of corruption at various levels of the public sector. Efforts must be amplified to create conditions for the development of a truly independent civil society and media and ensure their genuine involvement in assessing the actual scale of corruption and devising and implementing measures to prevent and combat it. Fundamental reforms, including on a broader institutional scale, are required to strengthen the independence of the judiciary, prosecution and law enforcement agencies from the over-arching control by the highest political/executive power, in particular the President. Guidelines have been prepared regarding the procedure and criteria to apply when examining immunity requests, so that they do not hamper the effective investigation (particularly, preliminary investigations), and subsequent adjudication, of corruption offences. Much remains to be accomplished to provide for transparent and merit-based procedures for recruitment and promotions in the public administration, as well as for establishing a set of integrity requirements with regards to all categories of public employees. A well-designed methodology for verification of declarations submitted by public officials must be developed, and an adequately resourced authority in charge of checks and verifications should be provided, to ensure the effectiveness of this system. Finally, persons convicted for serious corruption should be banned from executive positions in legal persons, and liability of legal persons for corruption offences must be strengthened to provide for effective, proportionate and dissuasive sanctions. GRECO wishes to put on record the Kazakhstani authorities' agreement to publish the Evaluation Report, thus demonstrating their engagement towards a transparent evaluation process, open to

public scrutiny, and the willingness to raise awareness of GRECO's findings across the general public. It is in this same spirit that GRECO looks forward to seeing Kazakhstan engage in the compliance procedure.

181. In accordance with Rule 31 revised bis, paragraph 8.2, of its Rules of Procedure, GRECO invites the Head of the delegation of Kazakhstan to submit additional information regarding the implementation of the outstanding recommendations by 30 September 2025.
182. GRECO invites the authorities of Kazakhstan to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.