



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Adoption: 18 October 2017
Publication: 22 March 2018

Public
GrecoEval 4Rep(2017)2

FOURTH EVALUATION ROUND

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

EVALUATION REPORT RUSSIAN FEDERATION

Adopted by GRECO at its 77th Plenary Meeting
(Strasbourg, 16-18 October 2017)

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
I. INTRODUCTION AND METHODOLOGY	5
II. CONTEXT	7
III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT	9
OVERVIEW OF THE PARLIAMENTARY SYSTEM	9
TRANSPARENCY OF THE LEGISLATIVE PROCESS	10
REMUNERATION AND ECONOMIC BENEFITS	13
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	15
<i>Incompatibilities and accessory activities, post-employment restrictions</i>	15
<i>Gifts</i>	16
<i>Financial interests, contracts with State authorities, misuse of public resources, third party contacts (lobbying)</i>	17
SUPERVISION AND ENFORCEMENT	19
ADVICE, TRAINING AND AWARENESS	25
IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES	27
OVERVIEW OF THE JUDICIAL SYSTEM	27
CASE MANAGEMENT AND PROCEDURE	37
ETHICAL PRINCIPLES, RULES OF CONDUCT AND CONFLICTS OF INTEREST	38
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	40
<i>Incompatibilities and accessory activities, post-employment restrictions</i>	40
SUPERVISION AND ENFORCEMENT	44
V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS	48
OVERVIEW OF THE PROSECUTION SERVICE	48
RECRUITMENT, CAREER AND CONDITIONS OF SERVICE	48
<i>CONDITIONS OF SERVICE</i>	50
CASE MANAGEMENT AND PROCEDURE	50
ETHICAL PRINCIPLES, RULES OF CONDUCT AND CONFLICTS OF INTEREST	51
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	52
<i>Incompatibilities and accessory activities, post-employment restrictions</i>	52
<i>Gifts</i>	53
<i>Third party contacts, confidential information</i>	54
DECLARATION OF ASSETS, INCOME, LIABILITIES AND INTERESTS	55
SUPERVISION AND ENFORCEMENT	55
TRAINING AND AWARENESS	58
VI. RECOMMENDATIONS AND FOLLOW-UP	60

EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the systems in place in the Russian Federation to prevent corruption in respect of members of parliament, judges and prosecutors. As reflected in GRECO's previous reports on the Russian Federation, corruption has long been a serious, pervasive problem in the country. The authorities have themselves recognised the need to tackle robustly corruption and have already taken a number of measures to this end, such as regular National Anti-Corruption Action Plans, the setting up of the Presidential Council for Countering Corruption and a number of legislative reforms. At the same time, there is growing awareness and expectation among the general public around the issue of combatting corruption. This report shows that the Russian Federation needs to continue its efforts in the particular areas covered here.

2. Insofar as members of the National Assembly are concerned, there are a number of strong safeguards already in place but, at the same time, some critical issues need urgent attention. The absence of codes of ethics applying to members of the State Duma and the Federation Council needs to be remedied as soon as possible as such codes provide MPs with a useful compass to avoid and defuse situations of conflict of interest. The transparency of the legislative process should also be strengthened by generalising the practice of public consultations already in place for bills originating from the executive, to bills examined by the National Assembly, and facilitating media accreditation. When it comes to declarations of assets, expenses, property and liabilities to be produced by members of the National Assembly, it would also be important to increase their transparency, for instance in revealing sources of revenues, to strengthen MPs' accountability to the public and in turn reinforce public trust. This should go hand and hand with a stronger monitoring mechanism of these declarations than currently exists, to audit such declarations in more depth and make them more transparent as well as to provide a range of sanctions adapted to the seriousness of the different types of breaches, from the smallest to most serious. Further guidance should also be drawn up to ensure that no gift is accepted by members of the National Assembly in a professional or private capacity which can cast a shadow over their voting for the public interest.

3. The judiciary is also affected by corrupt behaviour and, for this reason, significant efforts have been deployed through time by the Russian authorities to address this situation. The independence of the judiciary, including from other state bodies, remains a general concern. The report sees a number of areas where it would be crucial to tighten prevention of corruption amongst judges. The recruitment procedure needs to be further improved to ensure that there is stronger emphasis on the ethical qualities and integrity of candidate judges. It is important that the integrity checks used in the selection, recruitment and promotion of judges take place on the basis of objective criteria and in such a way that respects the independence of the judiciary, including by reducing the influence of the executive in the process leading to judges' appointment. It would also be important to strengthen the independence of justices of the peace, as first instance judges dealing with the bulk of litigations, by ensuring appropriate tenure for them. Further, as a matter of principle, it would be important to put back at the heart of the Judicial Code of Ethics the issue of conflicts of interest and the line drawn between public and private interests and to provide further guidance in respect of situations where judges are offered gifts and other advantages. This would also be an important signal to the general public, reinforcing their trust in the impartiality of the judicial system.

4. The prosecution service plays a central role in fighting corruption in the Russian federation. The fact that this profession is subject to strict hierarchy and discipline means that combatting corruption appears rather effective, and a wide range of internal regulations have been adopted for this purpose. That being said, there are nonetheless instances of prosecutors involved in corruption cases and the report identifies areas of potential weaknesses in the system, which need to be addressed to strengthen

prevention of corruption within the prosecutor's office. Access to the profession could be made more transparent, in particular when it comes to candidates that possess the requisite professional experience and do not come from within the ranks of the prosecutor's office, using an open recruitment procedure and pre-established, objective criteria. When it comes to the allocation of cases, improvements should be made in setting up objective criteria for the assignment of cases to prosecutors, having regard to a fair and equitable distribution of workload and, significantly, protecting case assignment from undue influence. Practical guidance would also be needed to reaffirm the requirement of reporting gifts, not least in borderline situations going beyond the strict exercise of prosecutorial functions. Above all, the prosecutorial system, which is relatively closed and based on a strict hierarchical structure and lines of command, needs to be subject to public accountability. This would appear particularly important regarding disciplinary proceedings against prosecutors, for them to be and be seen as fair and effective by the public.

I. INTRODUCTION AND METHODOLOGY

5. The Russian Federation joined GRECO in 2007. Since its accession, the country has been subject to evaluation in the framework of GRECO's Joint First and Second (in December 2008) and Third (in March 2012) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (www.coe.int/greco).

6. GRECO's current Fourth Evaluation Round, launched on 1 January 2012, deals with "Corruption prevention in respect of members of parliament, judges and prosecutors". By choosing this topic, GRECO is breaking new ground and is underlining the multidisciplinary nature of its remit. At the same time, this theme has clear links with GRECO's previous work, notably its First Evaluation Round, which placed strong emphasis on the independence of the judiciary, the Second Evaluation Round which examined, in particular, the executive branch of public administration, and the Third Evaluation Round, which focused on the incriminations of corruption (including in respect of parliamentarians, judges and prosecutors) and corruption prevention in the context of political financing.

7. Within the Fourth Evaluation Round, the same priority issues are addressed in respect of all persons/functions under review, namely:

- ethical principles, rules of conduct and conflicts of interest;
- prohibition or restriction of certain activities;
- declaration of assets, income, liabilities and interests;
- enforcement of the applicable rules;
- awareness.

8. As regards parliamentary assemblies, the evaluation focuses on members of national parliaments, including all chambers of parliament and regardless of whether the members of parliament are appointed or elected. Concerning the judiciary and other actors in the pre-judicial and judicial process, the evaluation focuses on prosecutors and on judges, both professional and lay judges, regardless of the type of court in which they sit, who are subject to national laws and regulations.

9. In preparation of the present report, GRECO used the responses to the Evaluation Questionnaire (Greco Eval IV (2016) 4E) by the Russian Federation, as well as other data, including information received from civil society. In addition, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the Russian Federation from 28 to 31 March 2017. The GET was composed of Mr Manuel ALBA NAVARRO, Clerk of the Congress of Deputies (Spain), Ms Anita LEWANDOWSKA, judge, head of civil division in District Court Warsaw-Zoliborz in Warsaw (Poland), Mr Xenophon PAPARRIGOPOULOS, Attorney-at-law, member of the Scientific Service of the Hellenic Parliament (Greece) and Mr Georgi RUPCHEV, State Expert, Directorate of International Co-operation and European Affairs, Ministry of Justice (Bulgaria). The GET was supported by Mr Gianluca ESPOSITO, Executive Secretary of GRECO, Mr Björn JANSON, Deputy Executive Secretary of GRECO, and Mr Gerald DUNN from GRECO's Secretariat.

10. The GET was received by the General Prosecutor's Office. It interviewed members and other representatives of both chambers of the Federal Assembly of the Russian Federation (Parliament), i.e. the Federation Council and the State Duma, the State Duma and the Federation Council's respective Commissions exercising control over the authenticity of information on revenues, property and property-related liabilities of members of Parliament; the State Duma Committee on Security and Anti-Corruption; the State Duma Commission on Parliamentary Ethics; the State Duma Committee on the Regulations and Organisation of the parliamentary activity; the Federation Council Committee on the House Rules and Parliamentary Performance Management.

Furthermore, the GET met with representatives of the Judiciary: judges of the Constitutional Court, Supreme Court, Moscow Regional Court, Podolsk Town Court, 9th Arbitration Appeal Court, Arbitration Court of the North-Western District, Moscow Arbitration Court, and officials of the Secretariats of the Supreme Court (Head of Secretariat and officials of the Judicial Department), Constitutional Court, Moscow Regional Court and the Krasnogorsk Town Court as well as members the Council of Judges. It also met representatives of the State University of Justice and other academics. The GET also interviewed officials of the General Prosecutor's Office, including the First Deputy Prosecutor General, Mr Alexander BUKSMAN, and representatives of the Academy of the Prosecutor General's Office. In addition, the GET met representatives of the Russian Presidential Executive Office and the Russian Federation Investigative Committee. The GET's meetings also included representatives of civil society, more particularly Transparency International – Russia, the National Anti-Corruption Committee, the Centre for Combatting Corruption in Government Bodies, the Russian Union of Industrialists and Entrepreneurs, the All-Russia Business Association, the All-Russia Organisation of the Russian Federal Chamber of Lawyers, and the Association of Lawyers of Russia, as well as media representatives (Interfax news agency; Russia Today news agency; Bulletin of Anti-corruption Expertise; Telekanal Russia; Lenta.ru; the "First Anti-Corruption Media").

11. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of the Russian Federation in order to prevent corruption in respect of members of parliament, judges and prosecutors and to further their integrity in appearance and in reality. The report contains a critical analysis of the situation in the country, reflecting on the efforts made by the actors concerned and the results achieved, as well as identifying possible shortcomings and making recommendations for further improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of the Russian Federation, which are to determine the relevant institutions/bodies responsible for taking the requisite action. Within 18 months following the adoption of this report, the Russian Federation shall report back on the action taken in response to the recommendations contained herein.

II. CONTEXT

12. GRECO concluded in its first and second evaluation rounds report that corruption was a widespread systemic phenomenon in the Russian Federation, affecting the society as a whole, including public administration and the public institutions in place to counteract corruption, such as law enforcement agencies and the judiciary. In its addendum to the compliance report, which concluded the first and second evaluation rounds, GRECO acknowledged that the Russian Federation had taken a significant number of steps to improve the situation, including through legislative reforms and centralising corruption investigations with the Investigative Committee of the Russian Federation. At the same time, GRECO noted that a number of legislative reforms were yet to be completed, that a large number of officials continued to enjoy broad immunity from prosecution, including for corruption crimes, and that the strengthening of judicial independence and operational independence of law enforcement agents remained on-going challenges.

13. Within the framework of the Third Evaluation Round, GRECO concluded that the incrimination of bribery and trading in influence in the Criminal Code suffered from several substantial deficiencies. In the following compliance procedure, GRECO acknowledged that some progress had been made, but that several substantial points of the Evaluation Report's recommendations were yet to be addressed (such as broadening the scope of public sector and private sector bribery, and adopting specific provisions on trading in influence).

14. As regards the transparency of political party funding, GRECO's third Evaluation Report found that, on the one hand, there was a rather comprehensive set of laws in place governing the financing of political parties and of election campaigns and, on the other, that there are strong indications suggesting that many of the provisions were not implemented in practice. In the subsequent compliance report, GRECO welcomed that legislation had been passed to address some of its recommendations, but noted that insufficient measures had been taken to ensure that the regulation of political financing is not undermined by the misuse of public office; to ensure that membership fees are not used to circumvent the transparency rules applicable to donations; and to strengthen the independence of the election commissions.

15. According to Transparency International's (TI) annual perception index, the perception of how the Russian Federation is affected by corruption has remained high over the past five years. In the 2016 Corruption Perception Index (CPI) ranking, the Russian Federation scored 29 on a scale from 0 (highly corrupt) to 100 (very clean), placing the country on 131 out of 174 countries. According to TI's Global Corruption Barometer (2016), 39% of persons interviewed considered corruption one of the top three problems in the Russian Federation and 62% rated their government "badly" at fighting corruption in government.¹ At the same time, TI noticed some positive dynamics in the fight against corruption in the Russian Federation, notably in respect of pledges made following the London global anti-corruption summit in 2016.² According to the World Bank's Control of Corruption Index, the perceptions of the extent to which public power is exercised for private gain, which range from 0 (worst situation) to 100 (best situation), was of 19.2 in the Russian Federation in 2015.³

16. As regards the categories of persons specifically covered by the current report, in spite of a number of legislative reforms as outlined above, there have been regular media reports of judges embroiled in corruption cases.⁴ Corruption scandals involving

¹ www.transparency.org/whatwedo/publication/people_and_corruption_europe_and_central_asia_2016

² <https://www.anticorruptionpledgetracker.com>

³ <http://databank.worldbank.org/data/reports.aspx?source=worldwide-governance-indicators&preview=on>

⁴ E.g. "Arbitrator Korogodov removed and prosecuted", 25.01.2017, (<https://en.crimerussia.com/corruption/arbitrator-korogodov-removed-and-prosecuted/>); "Former judge jailed

MPs are also a regular occurrence.⁵ While the General Prosecutor's Office is one of the most powerful institutions of the country and a key player in the fight against corruption in Russia, there are regularly corruption cases involving prosecutors, as reported in the media.⁶

17. The Russian Federation has taken a number of steps to fight corruption as reflected in previous evaluation round reports, including through the Law on Combatting Corruption of 25 December 2008, which applies to all state institution officials (including MPs, judges and prosecutors), the establishment of the Presidential Council for Countering Corruption, the competence of the Investigative Committee in corruption matters, and several National Anti-Corruption Action Plans⁷. Most recently, legislation creating a registry of officials holding public offices dismissed in connection with loss of trust for violations of anti-corruption legislation has been adopted and will enter into force on 1 January 2018. In July 2017, it was announced that some 500 officials had been dismissed for loss of trust in relation to anti-corruption obligations.

18. It is also noteworthy that civil society demonstrations against corruption were organised in several cities, at the instigation of an opposition movement, in 2017.⁸ The Russian authorities take issue with this, claiming that these rallies only stemmed from unsubstantiated allegations of corruption against the Prime Minister.

for nine years over bribe-taking", 30.03.2017 (<https://en.crimerrussia.com/corruption/former-judge-convicted-to-nine-years-of-imprisonment-for-taking-bribes-in-vladimir/>); "Accused of receiving multi-million bribe Sverdlovsk judge fled abroad", 26.01.2017 (<https://en.crimerrussia.com/corruption/accused-of-receiving-multi-million-bribes-sverdlovsk-judge-fled-abroad/>).

⁵ E.g. "Ex-Senator Tsybko got 9 years of colony for bribery", 3.08.2017 (<https://en.crimerrussia.com/corruption/ex-senator-tsybko-got-9-years-of-colony-for-bribery/>); "Ex-Senator Dmitry Krivitsky accused of bribe-taking arrested in absentia", 06.03.2017, (<https://en.crimerrussia.com/corruption/ex-senator-dmitry-krivitsky-arrested-in-absentia-/>); "Fictitious divorces help officials to circumvent anti-corruption laws", 07.08.2016, (https://en.crimerrussia.com/corruption/fictitious-divorces-help-officials-to-circumvent-anti-corruption-laws/?sphrase_id=83193); "Russian deputy suspected of corruption put on international wanted list 16.10.2015 (<http://tass.com/society/829619>).

⁶ E.g.: "Saratov's Prosecutor was arrested for two months on suspicion of taking bribes", 30/8/2016 (<https://en.crimerrussia.com/corruption/saratov-s-prosecutor-was-arrested-for-two-months-on-suspicion-of-taking-bribes/>); "Moscow: Deputy Prosecutor detained for bribery placed under house arrest", 2.08.2017 (<https://en.crimerrussia.com/corruption/deputy-prosecutor-detained-for-bribery-in-moscow-was-sent-under-house-arrest/>); "Engels ex-Prosecutor sentenced to 8.5 years of imprisonment and \$17.700 fine", 18.05.2017 (<https://en.crimerrussia.com/corruption/engels-ex-prosecutor-sentenced-to-8-5-yaers-of-imprisonment-and-17-700-fine/>); "Deputy Prosecutor of Leningrad Region district charged with bribe-taking", 18.04.2017 (<https://en.crimerrussia.com/corruption/deputy-prosecutor-of-the-leningrad-region-district-became-defendant-in-case-on-bribe-taking/>).

⁷ The Executive Order on the National Anti-Corruption Plan for 2016-2017 was signed by the President on 1 April 2016.

⁸ E.g. "Thousands take to streets in opposition rallies across Russia", Russia Today, 26.03.2017 (<https://www.rt.com/news/382381-russia-opposition-protests-detentions/>); "Russia protests: Crowds take to streets over corruption", BBC, 26.03.2017 (<http://www.bbc.com/news/av/world-europe-39400786/russia-protests-crowds-take-to-streets-over-corruption>); "Anti-corruption demonstrations sweep across Russia", 27.03.2017, The Economist (<https://www.economist.com/news/europe/21719588-protests-show-opposition-leader-alexei-navalny-remains-force-anti-corruption-demonstrations>) "Tens of thousands rally across Russia in protests against corruption", Washington Post, 12.06.2017 (https://www.washingtonpost.com/world/thousands-rally-across-russia-as-anti-corruption-activist-navalny-defies-moscow/2017/06/12/c1ba69c6-4ec6-11e7-b74e-0d2785d3083d_story.html?utm_term=.a86f72e455d2).

III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT

Overview of the parliamentary system

19. The Russian Federation has a bicameral parliament, the Federal Assembly of the Russian Federation, composed of the State Duma of the Russian Federation and the Federation Council of the Russian Federation (Art. 95, part 1, Constitution of the Russian Federation). The State Duma consists of 450 deputies (Art. 95, part 3, Constitution). The Federation Council includes, on the one hand, two representatives from each constituent entity of the Russian Federation⁹ (one from the legislative assembly and one from the executive body) and, on the other hand, representatives of the Russian Federation, who are appointed by the President of the Russian Federation and cannot account for more than 10% of the total number of the members of the Federation Council (Art. 95, part 2, Constitution). The Federation Council has at present 170 members from the constituent entities. All draft federal laws, including those originating in the Federation Council, are first considered by the State Duma. Once adopted by the State Duma, draft laws are considered by the Federation Council. If the two chambers disagree, conciliation commissions are set up to reach consensus on the draft.

20. Deputies of the State Duma are elected by citizens of the Russian Federation on the basis of equal and direct suffrage, by secret ballot (Art. 1, Federal Law No. 20-FZ of 22.02.2014 "on the election of deputies of the State Duma of the Federal Assembly of the Russian Federation", hereafter LEDES). Any Russian citizen over the age of 21 can stand for election. The deputies' term of office is five years (Art. 96, Constitution). According to Article 3 LEDES, a parallel voting system is applied whereby half of the deputies are elected in single-seat districts (one district equals one deputy), with a first-past-the-post system, while the other half are elected in the federal electoral district, proportionally to the number of votes cast for each federal lists of candidates. The number of votes cast for a federal list corresponds to the sum of votes cast for this list in each constituent entity and outside the Russian Federation. Deputies represent the population of the country as a whole and the national public interest, rather than the interests of their district, constituent entity or political party. In addition, deputies have a duty to communicate with a body of electors, which implies, *inter alia*, that they examine requests from electors, meet electors in person at least once every two months, and hold meetings with them every six months.

21. Members of the Federation Council (MFCs) derive their mandate from the relevant state legislative and executive bodies of a constituent entity (Art. 1, Federal Law No. 229-FZ of 03.12.2012 "on the Procedure of Formation of the Federation Council of the Federal Assembly of the Russian Federation"). MFCs sent by the legislative bodies of each constituent entity are selected through a majority vote of the deputies of that body. MFCs appointed by the executive bodies of the constituent entities must be chosen by the newly elected head of that state executive body, no later than one day after taking office. MFCs representing the Russian Federation are appointed by the President. MFCs must be at least 30 years of age and have lived permanently in the region they represent for at least five years before their nomination. The Federation Council is formed and structured on a non-partisan basis. Due to the election system, MFCs represent not only the national public interest but also the interests of their constituent entity. Their term of office is fixed by the authorities that appoint them.

22. Deputies of the State Duma and members of the Federation Council (hereafter, members of parliament or MPs) enjoy immunity from arrest, detention (except for situation of *in flagrante delicto*) and searches (except personal searches for the safety of the public) (Art. 98, Constitution). Immunity extends to administrative offences.

⁹ Constituent entities of the Russian Federation (Art. 65, Constitution): 22 republics, 46 *oblasts*, nine *krais*, three federal cities, four autonomous *okrugs*, and one autonomous *oblast*

Immunity can be waived by the competent chamber of the Federal Assembly on a proposal from the Prosecutor General of the Russian Federation. Immunity is dealt with in Article 8 of Resolution No. 33-SF on the Regulations of the Federation Council of the Federal Assembly of the Russian Federation (hereafter, Federation Council Regulations) and Article 185-1 to -6 of the Regulations of the State Duma of the Federal Assembly of the Russian Federation No. 2134-II GD of 22.1.1998 (hereafter, State Duma Regulations).

23. Loss of membership of MPs is covered by Article 4 of Federal Law No. 3-FZ of 08.05.1994 "on the Status of Members of the Federation Council and Deputies of the State Duma of the Federal Assembly of the Russian Federation" (hereafter, Law on the Status of MPs). Their term of office will be terminated in a number of cases, including when they are elected to the legislative body of a constituent entity or a local self-government body; if they are appointed to other public positions at federal or local levels; if they carry on business or other paid activities, except teaching, scientific and other creative activities, the financing of which does not contradict requirements laid down in law; if they join the governing bodies, trustee or supervisory boards, or other bodies of foreign NGOs and their branches in the Russian Federation (unless otherwise provided by an international treaty or federal legislation); if they hold accounts/deposits, keep cash and values in foreign banks outside the Russian Federation, and/or own and/or use foreign financial instruments when running for election and once elected; if they fail to submit or submit late information on their income, expenses, property and property-related liabilities.

24. The mandate of a deputy of the State Duma will also end in case of withdrawal from the faction (i.e. political group) of which the deputy is a member. It may also be terminated in case of non-execution within 30 or more calendar days of the duties on communication with their body of electors and participation in sessions of the State Duma, committee and commission of which he/she is a member.

Transparency of the legislative process

25. Prior to a draft law being introduced to the State Duma, consultations are held according to the rules applicable to the body that introduces the draft law. Draft laws may be introduced by MPs, the President, the Government, assemblies of the constituent entities as well as the Supreme Court and Constitutional Court on issues affecting their area of competence.

26. Draft laws introduced to the State Duma by MPs or a constituent entity's legislative assembly are submitted to the Federal Assembly's Council of Legislators¹⁰ for a preliminary legal examination in order to ensure their compatibility with existing legislation. The State Duma committee to which the examination of the draft law has been entrusted will take into account the results of this examination. Consultations are carried out during the sessions of the relevant committees of the State Duma and the Federation Council, *ad hoc* task groups and expert councils. Draft federal laws are submitted for consultation to the Civic Chamber of the Russian Federation after being introduced to the State Duma and prior to being considered in first reading. The Civic Chamber is a consultative civil society institution composed of 168 members, whose mandate includes the analysis of draft legislation (Art. 108, State Duma Regulations).¹¹ All draft laws introduced to the State Duma are available on its official website.

¹⁰ The Council of Legislators is composed of the chairs, first deputy chairs and deputy chairs of the Federation Council and the State Duma, the chairs of the legislative assemblies of the constituent entities of the Russian Federation, chairs of the committees of the Federation Council and State Duma. It analyses constituent entity legislatures' initiatives to ensure their alignment, efficiency and viability and to remove any internal contradictions at the earliest possible stage.

¹¹ Official website (in English): <https://www.oprf.ru/en>

27. Sessions of the State Duma and the Federation Council are as a rule public, and so are the sessions of their committees and commissions, the latter can vary from one parliamentary term to the next. Session reports are available to the public. However, the State Duma may decide to hold a closed session upon proposal of the session chair, the Council of the State Duma (which is responsible for the way the assembly operates), a State Duma committee or faction, the State Duma Chair, the President or Prime Minister. Similarly, the Federation Council may decide to hold a closed session upon proposal of the President or Prime Minister, the session chair, a Federation Council committee or a group of at least 25 MFCs.

28. Votes at sessions of the State Duma take place using electronic voting or nominative ballots. The State Duma can decide, by a majority vote of deputies taking part in the vote, to hold a secret vote. The outcome of secret voting using ballots is determined by a specialised body, the Counting Commission. Similar voting rules apply in the Federation Council.

29. All open sessions of both the State Duma and Federation Council are broadcast on their respective official websites. Records and notes of all plenary sessions and resolutions adopted at a session, as well as name lists of the outcome of open votes on each item of their agenda are also posted on these websites.

30. The State Duma also has committees, which are the same from one parliamentary term to the next, and commissions, which can be set up for the duration of a parliamentary term. The composition of committees and commissions is approved by a majority vote of all deputies, and their chairs, first deputy chairs and deputy chairs are also elected by the chamber. Sessions of committees and commissions are based on the principle of transparency and are open to accredited media (Art. 29, State Duma Regulations). The State Duma has a Committee on Security and Anti-Corruption, which meets three times a month, to consider, *inter alia*, the development of anti-corruption legislation.

31. The Federation Council sets up committees whose mandate is, *inter alia*, to undertake preliminary consideration of draft laws approved by the State Duma and to deal with other matters falling within the competence of the chamber, such as the appointment of judges to the Constitutional Court and Supreme Court and of the Prosecutor General. These committee sessions are as a rule public. However, a committee may decide to hold a closed session upon the proposal of its members, as well as in cases stipulated by the federal constitutional laws and federal laws. The media may be invited to attend public committee sessions. Information on activities of each committee (in particular, draft session agendas and annual reports on its activities) is posted on the Federation Council's website. MFCs can only be members of one committee at a time, and each committee must have from 11 to 21 members. The chair, first deputy chair, and deputy chairs of the committee are elected at a session of the committee by a majority vote of all MFCs.

32. There is currently no legislative framework regulating contacts of MPs with third parties, which will be addressed later in the report in a dedicated section (see paragraphs 65-66).

33. Draft federal laws proposed by the Federation Council may, by decision of the chamber, involve a public consultation before being introduced to the State Duma (Art. 143¹, Federation Council Regulations). This decision designates the committee(s) that will be responsible for organising the public consultation. For this purpose, the draft law is posted on the official website of the Federation Council.

34. In accordance with Government Decree No. 851 of 25.08.2012 "concerning the procedure for disclosure of information on the project formulation of normative legal acts

and results of their public consultation by the Federal agencies of executive authority", all draft laws proposed by the executive undergo a public consultation process, which in practice is carried out via the Internet, prior to being submitted to the State Duma. Such public consultations cannot take place less than 15 days from the date of publication of the draft law on the State Duma's website.

35. The GET considers it a positive feature of the legislative process that draft bills are submitted to the Civic Chamber, which brings together civil society representatives, prior to the State Duma's first reading. It also welcomes the fact that all draft laws emanating from the executive are to be systematically submitted for public consultation before being sent to the State Duma. These two features can usefully contribute to increasing transparency.

36. Furthermore, public consultation on draft bills presented by MPs from the State Duma and Federation Council, while possible, are optional. The GET considers that the legislative process would gain in transparency if draft bills were as a main rule submitted to public consultation. Moreover, similar to what is in place for draft laws emanating from the executive, public consultations on other draft laws ought to be dealt with according to a fixed timeframe that ensures a meaningful contribution from the public. This is all the more important considering that the majority of initiatives come from deputies of the State Duma, even if the number of passed bills comes essentially from the executive.¹²

37. Only accredited media representatives are allowed to attend sessions of the State Duma and the Federation Council as well as their committees. The accreditation process follows dedicated rules in each chamber, according to which applications for one-year accreditations are to be examined within 30 days from submission in the State Duma and within 14 days in the Federation Council. The grounds of refusal applied by the State Duma for such applications are the following: (i) if the activities of the applicant media are purely advertising in nature, if the applicant is a specialised publication, and if the applicant media has not published articles covering the State Duma's activities; (ii) if the applicant media provides inaccurate information on their publication and accredited journalists; (iii) by reason of the results of investigations concerning the journalists conducted in the manner established by the Federal Guard Service. The authorities specify that rules for media accreditation and grounds of refusal are similar in the Federation Council. They indicate that there is also a practice of delivering one-off accreditations, valid for a specific event and which are dealt with more quickly. Nonetheless, the GET is struck both by the potentially long time needed to validate long-term media accreditations and the strict requirements applied to applicant media (e.g. prior articles on parliamentary activities; no specialised publications), which taken together make media access to parliamentary work more difficult. The GET further notes that, while the current system provides for long-term accreditations, which is regulated, the system for short-term accreditations to be given for a specific matter being debated by Parliament is only based on practice and there are no fixed grounds for refusal. The possibility of obtaining accreditation more quickly is all the more important that, in the practice of many countries, parliamentary agendas are often fixed at relatively short notice before sessions. In this connection, the GET emphasises the importance of providing broad media access to the legislative process in Parliament as a way of guaranteeing access to information to the larger public and therefore an important means for stimulating public consultation.

¹² In 2014, 1 346 draft laws came from the National Assembly and constituent entities' assemblies (including 805 initiatives from State Duma deputies, 65 from the MFCs, 67 joint initiatives of deputies and MFCs, 398 from assemblies of the constituent entities, the remainder being other joint initiatives), 35 from the President, 308 from the Government, and 2 from the Supreme Court. The number of bills passed was as follows: 45 initiatives from the President, 256 from the Government 252 from the National Assembly or constituent entity assemblies (157 from State Duma deputies, 13 from MFCs, 39 from constituent entity assemblies, and 42 jointly from deputies and MFCs and 1 from the Federation Council) and 2 from the Supreme Court.

38. In view of the above, GRECO recommends that the transparency of the legislative process be enhanced (i) by introducing an obligation to hold public consultations as a main rule for draft laws in the National Assembly; (ii) by ensuring that applications to obtain media accreditation in order to have access to the parliamentary process are examined within a reasonable time, depending on the circumstances, and that grounds for refusal are reviewed with a view to facilitating media access.

Remuneration and economic benefits

39. According to the World Bank, GDP per capita in the Russian Federation was USD 9,093 (approximately EUR 7,840) in 2015. According to the Russian Federal State Statistics Service,¹³ the average nominal monthly salary in 2015 was RUB 33,239 (approximately EUR 442) and the average gross annual salary was RUB 407,100 (approximately EUR 5,420).

40. A monthly remuneration, in money and cash rewards, similar to that of federal-level ministers is paid to all MPs, irrespective of their position in the assembly, with the exception of the chairs of each chamber. In 2016 it amounted to an average of RUB 340,000 (approximately EUR 5 364) per month, i.e. RUB 4 080 000 (approximately EUR 64 360) per year. MPs are meant to work full-time for the Federal Assembly. The budget available for MPs relies entirely on public resources.

41. The Law on the Status of MPs provides for a number of guarantees to enable MPs to carry out their duties. The state covers costs linked to performing their mandates: reimbursement of expenses related to moving to Moscow to undertake their parliamentary duties and to returning to their permanent place of residence at the end of their term; medical and welfare support; official accommodation in Moscow, for those not having one for the duration of their term. Russian Federation citizens having held positions of members of the Federation Council or deputies of the State Duma for at least five years are entitled to a monthly pension supplement. An annual paid leave of 42 days is granted to members of the Federation Council and deputies of the State Duma, with certain extensions being provided for by law. There are no other allowances for MPs according to the Russian authorities.

42. The GET takes the view that there should be a transparent framework to the remuneration and allowances MPs receive and better accountability, including through the audit system, to contribute to fostering confidence amongst the general public.

Ethical principles and rules of conduct

43. MPs are under a statutory obligation to abide by a code of ethics (Art. 9, Law on the Status of MPs). However, for the time being, there is no formalised code in place and standards of conduct are encompassed in the State Duma Regulations and Federation Council Regulations. The liability of MPs for breaching these standards is established in accordance with the regulations of both chambers. The GET was informed that both chambers are currently developing a code of conduct. In addition, the State Duma has set up a Commission for Deputy Ethics, which, *inter alia*, is looking into a future code of ethics. By contrast, each chamber has already adopted a Code of Ethics and Official Conduct covering the behaviour of civil servants working in their respective parliamentary services.

44. MPs taking the floor in both chambers must refrain from using gross, abusive language prejudicial to the honour and dignity of fellow MPs and other persons, making

¹³ See Report "Socioeconomic Situation of Russia", page 202. Available at (Russian only): www.gks.ru/free_doc/doc_2015/social/osn-12-2015.pdf

unsubstantiated accusations against any person, using knowingly fraudulent statements and/or calling for illegal actions. In case of breach, the State Duma chair warns the MP having taken the floor and, in case of a further breach, will deprive him/her of the right to speak for the whole day of the session. A State Duma deputy may also be deprived of the right to speak for a period of up to one month by a decision of the chamber, taken by a majority of the total number of deputies. As to the Federation Council, MFCs may be deprived of the right to speak without warning in case of breach.

45. Although the GET was told during the site visit that there was ongoing work in the State Duma on a code of ethics for MPs, it was also informed that this had been the case for over 15 years. Moreover, the GET got the impression that, insofar as conduct and ethics of MPs are concerned, interlocutors met during the site visit focused more on propriety during parliamentary sessions (how to address fellow MPs, how to behave in a dignified way, dress code, etc.) rather than the actual integrity of MPs. Sanctions referred to confirm this impression since they consist in prohibiting MPs, who have been found in breach, from speaking in the chamber for a certain period of time.

46. From the outset, the GET wishes to draw attention to the repeatedly expressed preference in GRECO reports in favour of parliaments having their own set of common standards and guidelines in respect of ethical principles and expected conduct of their members, as well as in respect of those who work for the members, drawn up with a strong involvement of the MPs themselves. Such standards should deal with integrity issues such as gifts and other advantages, third party contacts, lobbyists, accessory activities, and post-employment situations. Experience shows that the mere process of developing such standards raises MPs' awareness of integrity matters, assist them to act proactively in difficult ethical situations and – not least – to demonstrate their commitment *vis-à-vis* the general public. As a result, such codes and guidelines can contribute to better public confidence in parliamentary institutions in that citizens know what conduct they should expect from parliamentarians and from those who work for MPs as their employees, assistants, etc. – a concern that has been expressed in several GRECO reports.

47. The GET also wishes to stress that codes of ethics/conduct are not meant to replace existing constitutional rules, legislation or other forms of regulation, but rather to further develop such provisions, to complement, clarify and provide practical guidance in a flexible way in situations which may give rise to controversies and various forms of conflicting interests. Moreover, such codes are less static than legislation and need to evolve over time.

48. In view of the above and with reference to Guiding Principle 15 of Resolution (97) 24 of the Committee of Ministers of the Council of Europe on the twenty guiding principles for the fight against corruption, GRECO recommends that a code of ethics/conduct for members of parliament be adopted – covering various situations of conflicts of interest (gifts and other advantages, third party contacts, accessory activities, post-employment situations, etc.) -, made accessible to the public, and that it be complemented by practical measures for its implementation and enforcement.

Conflicts of interest

49. According to Article 10 of Federal Law No. 273-FZ of 25.12.2008 “on combating corruption” (hereafter, Law on Combating Corruption) a conflict of interest defines a situation where the personal interest (direct or indirect) of a person holding a position which entails a duty to take measures on preventing and settling conflicts of interest, affects or can affect the proper, objective and impartial discharge of his/her official/professional duties and functions. Furthermore, personal interest is understood as the possibility of obtaining gains in the form of money, other property, including property

rights, property services, work deliverables or any benefits/advantages by the person concerned and/or by persons closely related to him/her (parents, spouse, children, brothers, sisters, and brothers, sisters, parents, children of the spouse and spouses of the children), citizens or organisations, with which the person concerned and/or persons closely related to him/her are bound through property, corporates or other close relations.

50. MPs have to indicate any personal interest that results or may result in a conflict of interest in the performance of their professional duties, and should take measures to prevent or settle such a conflict of interest (Art. 12.1, Law on Combating Corruption).

51. The general procedure for preventing and settling conflicts of interest is that established under the Law on Combating Corruption (Art. 11). More specifically in the case of MPs, where there are grounds for possible conflict of interest, they must inform, in the manner prescribed by the Federation Council or of the State Duma, their respective Commissions Exercising Control over the Authenticity of the Information on Revenues, Property and Property-related Liabilities Provided by MPs (hereafter, Commissions on Revenues, Property and Liabilities of MPs) about any personal interest arising when exercising their mandate, which leads or may lead to a conflict of interest, and they must take measures to prevent or settle any such conflict (Art. 6, para. 2.2, Law on the Status of MPs).

52. MFCs are required to inform the Commission on Revenues, Property and Liabilities of MFCs of any possibility that, in exercising their official duties, they and/or persons closely related to them – whether individuals or organisations with which they and/or persons closely related to them are linked through property, corporates or other close relations – may derive personal gain in the form of money, property (including property rights), paid services, deliverables or any benefits, which leads or may lead to a situation where their personal interest directly or indirectly affects or may affect the proper, objective and impartial exercise of their mandate. Further, they must take measures to prevent or settle such conflict of interest (Art. 8.2, Federation Council Regulations).

53. MFCs must submit an ad hoc declaration to the Commission on Revenues, Property and Liabilities of MFCs whenever their personal interest comes into play in the performance of their duties. Upon receipt of the declaration, the Commission can ask for clarification from the MFCs and information from the federal state bodies, state bodies of a constituent entity, other state bodies, local self-government bodies and relevant organisations. If the Commission considers that the MFC's personal interest leads or may lead to a conflict of interest, it addresses recommendations to the MFC concerned on measures to take to prevent or settle the conflict of interest. The MFC must then take measures to prevent or settle this conflict of interest. The results of the review are considered at a public session of the Commission, which the media can attend, and its decision is sent to the Chair of the Federation Council.

54. A similar declarative procedure is applicable to deputies of the State Duma in respect of its own Commission on Revenues, Property and Liabilities of Deputies (State Duma Regulations in application of Act No. 9313-6 of 21.06.2016).

Prohibition or restriction of certain activities

Incompatibilities and accessory activities, post-employment restrictions

55. MPs cannot at the same time:

- be a deputy of a legislative assembly of a constituent entity or local self-government body, an elective official of other state body or local self-government body; hold other public positions in the Russian Federation or in a constituent entity;

- be in the state or municipal civil service;
- carry on business or other paid activities, except for teaching, scientific and other creative activities, provided that they are not funded only by foreign countries, foreign and international organisations, foreign citizens, unless otherwise stipulated by international agreements or federal legislation;
- participate in activities involving the management of a business entity or other commercial organisations, including being a member of the governing bodies of a commercial organisation;
- be a member of administrative authorities, guardianship or supervisory boards or other bodies of foreign NGOs and their branches operating in the Russian Federation, unless otherwise stipulated by international agreements or federal legislation.

56. These limitations, which are listed under the Law on the Status of MPs (Art. 6), are referred to under the relevant subsequent sections of the report on gifts, financial interests and misuse of confidential information, as appropriate.

57. Specific restrictions, prohibitions and property-related liabilities for persons holding state positions of the Russian Federation (which include the Chair, First Deputy Chair and Deputy Chairs of both the Federation Council and the State Duma; Chairs and Deputy Chairs of committees and commissions of both the Federation Council and the State Duma; Chairs of the subcommittee of a committee of the State Duma) are laid down in the Law on Combating Corruption (Art. 7.1, 8.1, 12.1, 12.3 and 12.5). In addition to similar restrictions applicable to all MPs, such persons are not authorised to:

- be trustees or other representatives in affairs of third parties in the federal state bodies or local self-government bodies, unless otherwise stipulated by federal laws;
- receive fees for publications and speeches;
- receive honorary or special titles, awards or other distinctions (excluding scientific or sport distinctions) of foreign states, international organisations, political parties, other public associations and other organisations, in breach of the established procedure.

58. The GET notes that there are no applicable restrictions on the employment of MPs after their term of office. The GET recalls that GRECO has already found that MPs could well engage in particular matters (including legislation) in Parliament while having in mind interests that would come into play during their mandate or upon leaving Parliament or as a future lobbyist. Also in this respect, the GET did not receive any information and it would appear that there is no record in the matter.

Gifts

59. Under the Law on the Status of MPs (Art. 6), MPs must not:

- receive rewards in relation to the execution of their official duties that are not stipulated by legislation (e.g. loans, rewards, services, payments for entertainment activities, leisure, transport expenses) from individuals or legal entities. Gifts received as part of hospitality events, business trips or other official events are considered federal property and must be transferred to the Federation Council or the State Duma, respectively, except for cases stipulated by federal legislation. MPs may buy out the gifts in question according to the procedure established by federal regulations;
- take part in business trips outside the country whose expense is covered by individuals or legal entities, excluding business trips performed in accordance with federal legislation or international agreements.

60. Similar rules apply to chairs and their deputies, members of committees and commissions, as persons holding state positions within the meaning of the Law on Combating Corruption, in both chambers.

61. During the site visit, the GET was informed that all gifts received had to be reported to chamber's respective administrations. However, in spite of existing rules in both chambers, the GET notes some uncertainty as to the clear distinction between gifts received by MPs in an official capacity, which need to be reported, and those received in a private capacity, where the obligation to report is less obvious. There is in practice a risk, for instance, that gifts received in the margins of official events or business travels to influence an MP go undeclared.

62. The GET considers that guidelines illustrated by practical examples would be beneficial to ensure that MPs duly report all gifts from third parties, regardless of whether they have been received in the strict exercise of their parliamentary functions (e.g. gifts received during official events) or could be seen as related in some way with their parliamentary functions (e.g. gifts made to influence the legislative process). GRECO recommends that practical guidance be drawn up on the requirement for MPs to report gifts, including in kind, received from third parties.

Financial interests, contracts with State authorities, misuse of public resources, third party contacts (lobbying)

63. MPs cannot open and keep accounts, keep cash and valuables in foreign banks located outside the Russian Federation, as well as possess and/or use foreign financial instruments (Art. 6, Law on the Status of MPs). In case MPs, including chairs and their deputies, members of committees and commissions in both chambers, own securities or shares and this may lead to a conflict of interest, they must place them into a trust in accordance with law.

64. In addition, MPs may not use for purposes unrelated to the performance of the appropriate powers of their office any logistic and financial means intended only for service activities (Art. 6, Law on the Status of MPs). Similarly, chairs and their deputies, members of committees and commissions in both chambers may not use for other purposes logistic and financial means intended for service activities only (Art. 12.1, Law on Combating Corruption).

65. There is currently no law dealing with contacts of MPs with third parties, be it lobbies or others. The GET was told that consideration had been given to it on several occasions, including in the last parliamentary term of the State Duma, but that it was not felt necessary. It was explained to the GET that committees of both the State Duma and Federation Council systematically gather a number of working groups of experts during the examination of draft laws, which provide opportunities to express diverse views on the bills under examination and therefore to defuse potential lobbying action.

66. Hearing the views expressed during the site visit and noting that the majority of legislation passed by the State Duma originates from the executive, which admittedly is likely to reduce the potential for private sector lobbying of MPs, and while the GET is not convinced that a law governing lobbying as such would be adapted to the Russian legislative context, it still thinks that MPs' contacts with third parties – including from the executive power and through groups of experts consulted during the consideration of draft laws – would require some form of regulation (see paragraph 48).

Misuse of confidential information

67. MPs cannot disclose or use for purposes not related to the performance of their duties information classified as restricted under federal law which has become known to

them as part of the performance of their mandate (Art. 6, Law on the Statues of MPs) and neither can chairs and their deputies as well as members of committees and commissions in both chambers (Art. 12.1, Law on Combating Corruption). Responsibility for failure to observe that restriction understood as a corruption related offence is provided for in Article 13.1 of the Law on Combating Corruption.

Declaration of assets, income, liabilities and interests

68. MPs are required to submit annually (by 1 April of the year following the reporting financial year) to the Federation Council and the State Duma Commissions on Revenues, Property and Property-related Liabilities of MPs information on their revenues, expenses, property and property-related liabilities, as well as those of their spouses and minor children.

69. The procedure regarding the Federation Council's Commission on Revenues, Property and Property-related Liabilities of MFCs, its composition, personnel and operation is approved by a majority vote of all MFCs. MFCs are expected to furnish a certificate of their revenues, property and property-related liabilities as well as those of their spouses and minor children to the Commission. Should the member of the Federation Council state that the information he/she provided does not reflect or does not comprehensively reflect his/her situation or contains errors, he/she is entitled to provide additional information within one month upon expiration of the deadline for providing the required information.

70. The following information is posted on the website of the Federation Council within 14 business days after the expiry of the deadline for the submission of certificates of revenues, property and property-related liabilities by the MFCs: the declared annual revenue of the MFC, his/her spouse and minor children; the list of real estate units owned or used by the MFC, his/her spouse and minor children, indicating the type, area and country of location of each of them; the list of vehicles owned by the MFC, his/her spouse and minor children, indicating the type and make.

71. Deputies of the State Duma must provide to the Commission on Revenues, Property and Property-related Liabilities of Deputies on an annual basis the following information:

- all sources of revenues earned during the reporting period (from 1 January to 31 December) – including: financial remuneration, pensions, allowances, other payments – as well as information on property owned by them and property-related liabilities as of the end of the reporting period;
- all sources of revenues of their spouse and minor children earned in the reporting period – including salary, pensions, allowances, other payments – as well as information on property owned by them and their property-related liabilities as of the end of the reporting period;
- their expenses, as well as on those of their spouse and minor children incurred in the reporting period, on each transaction of purchase of a parcel of land, other real estate units, vehicles, securities, shares if a transaction amount exceeds the total income of the deputy of the State Duma and his/her spouse over three years preceding the reporting period, as well as on the sources of funds which allowed to make those transactions.

72. Information on revenues, property and property-related liabilities provided by the deputies of the State Duma includes information on immovable property located outside the Russian Federation, as well as on the sources of funds which allowed purchasing the specified property, and on property-related liabilities outside the Russian Federation.

73. The following information on revenues, property and property-related liabilities provided by deputies is posted on the assembly's official website and provided to the all-

Russian media for publication: the declared annual revenue of each deputy, his/her spouse and minor children; the list of real estate units owned or used by the deputy, his/her spouse and minor children, indicating the type, area and country of location of each of them; the list of vehicles owned by the deputy, his/her spouse and minor children, indicating the type and make. Information on revenues, property and property-related liabilities is posted within 14 business days after the expiry of the deadline set for the submission of certificates of revenues, property and property-related liabilities provided by deputies on the official website of the State Duma.

74. If the media submit to the State Duma a request to be provided with the above-mentioned information, the Commission informs the deputy to whom the request is related within three days upon receipt of the request, and provides the media with the requested information within seven days upon receipt of the request, unless such information is posted on the official website of the State Duma.

75. The Russian authorities have reported that Federal Law No. 148-FZ of 01.07.2017, which provides for the protection of personal data concerning high-ranking officials, does not cover data subject to publication or mandatory disclosure pursuant to federal laws; this has therefore no impact on the procedure of declaration of incomes, expenditures, property and property-related liabilities applicable to MPs.

76. The GET notes at the outset that under Russian law the notion of “property-related liabilities” is broad and also covers liabilities such as loans from others or debts owed to others which have no property component. This term also encompasses financial and other interests.

77. The GET was told during the site visit that information on MPs’ revenues, property and liabilities that is published on the State Duma’s and the Federation Council’s website does not include the detail and sources of revenues (e.g. salary, interest, dividends, remuneration from teaching and research activities, etc.) but only their global amount. The authorities argue that official guidelines list over 100 types of revenues to be included in MPs’ declarations, and that their full publication would be cumbersome and would risk adversely affecting MPs, for instance, in terms of security. Nonetheless, the GET notes that the fact that the monitoring of MPs’ declarations is entrusted to parliamentary commissions rather than an independent body makes public scrutiny all the more important and commands transparency. Accordingly, all available information regarding MPs’ revenues, property and liabilities, with the exclusion of information strictly justified by the protection of privacy but including sources of revenues for instance, should be made public and easily accessible on the chambers’ respective websites. This appears particularly important as the GET was informed that examination going beyond cursory verification was carried out by the State Duma’s and Federation Council’s Commissions on Revenues, Property and Liabilities of MPs upon suspicion of incorrect or incomplete information based on information communicated by a determined number of stakeholders (law enforcement or tax bodies; political parties; NGOs; the Civic Chamber of the Russian Federation; the media). This last aspect will be given further consideration in the section on supervision and enforcement (see paragraphs 92-97).

78. For these reasons, GRECO recommends that the declaration of revenues, interests, property and liabilities of members of parliament be published after their submission to the State Duma and Federation Council, without omitting information (such as sources of revenues) other than prejudicial to their privacy or that of their spouses and minor children.

Supervision and enforcement

79. The responsibility for violations by MPs of restrictions, prohibitions and liabilities laid down in the federal constitutional laws and other federal laws connected with

combating corruption is established by federal laws and resolutions of both chambers of the Federal Assembly (Art. 10, Part 9, Law on the Status of MPs).

80. In accordance with the Law on Combating Corruption (Art. 13.1, part 1), a person holding a public position in the Russian Federation, including MPs, will be removed from office on grounds of loss of confidence in case of:

- failure to take measures to prevent and/or settle a conflict of interest;
- failure to provide information on his/her revenues, property and property-related liabilities and those of his/her spouse and minor children, or providing misleading or incomplete information;
- participation in activities of an administrative body of a commercial organisation for a fee, excluding the cases laid down in federal law;
- carrying on business activities;
- inclusion in the structures of administrative bodies, guardianship or supervisory boards or other bodies of foreign NGOs and their branches in the Russian Federation, unless otherwise stipulated by an international agreement or federal legislation.

81. In parallel, the failure to observe certain restrictions also gives rise to an early termination of MPs' mandate, in accordance with the Law on the Status of MPs (Art. 4). MPs will be held responsible for the failure to submit or the untimely submission of information on their revenues, property and property-related liabilities, and those of their spouse and minor children.

82. In the State Duma, the Commission on Deputy Ethics is competent to prepare for consideration by the chamber the issues related to breaches of the rules of ethics. It is composed of seven deputies from the main party in the State Duma and seven from other parties represented in the chamber. The commission meets on a needs-basis depending on complaints it receives, including from civil society and the media. In principle, it does not examine anonymous complaints. During the period of the 6th convocation of the State Duma (2012-2016), the Commission on Deputy Ethics held 41 meetings, during which 354 complaints were considered, including 266 from citizens, legal persons and public authorities. The Commission addressed the issue of early termination of powers of two deputies, one concerning speaking rules in the chamber, and one last on statements made on television in relation to parliamentary work.

83. The GET notes, from the examples provided by the State Duma, that cases related more to speaking rules in and outside the chamber rather than the integrity of deputies. The GET was also told during the site visit that the State Duma Committee on Regulations and Organisation of Operations is competent to monitor whether deputies hold positions incompatible with the functions of deputy. In addition, the State Duma Commission on Deputy Ethics also examines complaints about breaches of ethics by deputies lodged by the State Duma Chair or Deputy Chair, any citizens or the media. However, the GET regrets that anonymous complaints are not given consideration. There is some uncertainty as to how the work of the State Duma Commission on Deputy Ethics and the Committee on Regulations and Organisation of Operations is articulated with that of the Commission on Revenues, Property and Liabilities when it comes to integrity issues. The GET is therefore of the view that some clarity as to their respective mandates would be desirable. The GET also notes that while, unlike the State Duma, it has no ethics commission, the Federation Council has a sub-committee on parliamentary ethics, but it is not clear what its remit is.

84. The Federation Council and the State Duma's respective Commissions on Revenues, Property and Liabilities of MPs deal with declarations on revenues, property and liabilities, which follow a standard format for both chambers, and declarations of personal interest. The Federation Council's Commission is composed of one of its deputy

chairs, acting as chair of the Commission, and one representative from each committee of the Federation Council. Members of the Commission rotate on an annual basis.

85. Both Commissions review the authenticity and completeness of the information on revenues, expenses, property and property-related liabilities provided by MPs as well as their observance of restrictions and prohibitions laid down in law. When MPs fail to provide or provide untimely information on their revenues, expenses, property and property-related liabilities, as well as those of their spouse and minor children, their parliamentary mandate is to be ended. In addition, the Commissions must conduct an in-depth examination of MPs' declarations and those of their spouse and minor children when it comes out that they have made transactions to purchase a plot of land, other real estate units, vehicles, securities or shares, for an amount exceeding the total income of that MP and his/her spouse over the three years preceding the reporting period.

86. Grounds for conducting a review depend on sufficient information being provided in writing by law enforcement or tax bodies; permanent executives of political parties and all-Russian NGOs; the Civic Chamber of the Russian Federation; the all-Russian media. Anonymous information may not serve as a ground for conducting a review. The results of the review are considered during a public session of the Commissions, which may be attended by members of the media.

87. Information according to which an MP has provided misleading or incomplete information on their revenues, expenses, property and property-related liabilities, when revealed by the Commissions, is published in the official gazette of the Federal Assembly, in printed form, and posted on the websites of the Federation Council and the State Duma. By a decision of the Federation Council, this information may be sent to the state body of the constituent entity having given the MFC his/her mandate.

88. As to the procedure before the Federation Council's Commission on Revenues, Property and Liabilities of MFCs, the Commission takes a decision on the authenticity and/or completeness of the information, which served as a ground for conducting the review, as well as recommendations on measures to be taken. As part of the review, the Commission is to assess factual circumstances justifying an early termination of the MFC's mandate. Upon completion of the review, it presents its findings to the MFC and the decision is transmitted to the Federation Council's Chair. If the decision is that there are well-founded grounds for an early termination of the MFC's mandate, the matter will be included in the agenda of the next session of the Federation Council. At this session, the Commission's chair will present its decision, after which the MFC concerned will have the opportunity to speak. A decision on early termination of a MFC's office is taken by a majority vote of all MFCs. This decision should be taken within 30 days from the date of the Commission's decision on grounds for early termination of the MFC's office.

89. A similar procedure applies to deputies of the State Duma, in accordance with the Regulation on the procedure for conducting a review of the authenticity and completeness of information on revenues, expenses, property and property-related liabilities provided by the deputies of the State Duma, as well as the observance by the deputies of the State Duma of restrictions and prohibitions laid down in federal legislation.

90. In 2015 and 2016, the State Duma Commission received respectively 24 and 14 complaints with information about the possible non-compliance with the State Duma restrictions imposed in connection with the exercise of parliamentary activities. In none of these instances did the Commission consider that there was sufficient information to carry out further examination of the declarations of the MPs concerned.

91. On a decision by the President of the Russian Federation, a specially authorised official or an authorised subdivision the Administration of the President can conduct a

review of a declaration made by an MP, which may be undertaken irrespective of whether a review is conducted by the chambers' respective Commissions on Revenues, Property and Liabilities of MPs.

92. The GET notes that the monitoring of MPs' declarations of revenues, property and property-related liabilities is entrusted to a specialised parliamentary commission in each chamber (the Commissions on Revenues, Property and Liabilities of MPs). From the site visit, it understands that declarations must be submitted annually by MPs to these commissions, which only carry out a cursory examination of the declarations. Upon information received from certain other stakeholders (law enforcement or tax bodies; political parties; NGOs; the Civic Chamber of the Russian Federation; the media), the Commission will decide whether to carry out an in-depth examination of a declaration furnished by an MP. It can also decide *ex officio* to undertake such additional examination.

93. Firstly, the GET notes that the declaration system relies notably on exterior stakeholders to flag concerns about a declaration furnished by an MP to set in motion further examination of the said declaration by the commissions, which presupposes public access to all the relevant information on MPs' declarations. However, the GET has already pointed out that only basic information contained in the declarations is published and accessible to the public (see paragraph 77). This in itself is sufficient to have misgivings about the effectiveness of the monitoring of asset declarations of MPs. Secondly, the GET notes that, upon receiving information raising concerns about the declaration produced by an MP, the commissions examines whether it is sufficient to warrant an in-depth examination. While this might be justified to filter baseless claims, it is nonetheless striking that out of 38 complaints received by the State Duma Commission on Revenues, Property and Liabilities of Deputies in 2015 and 2016, none led to an examination of the declarations of the MPs concerned going beyond the cursory verification carried out upon receipt of the declarations.

94. During the site visit, interlocutors confirmed that such complaints lodged with the commissions on revenues, property and liabilities of MPs were generally rejected, allegedly often for formal reasons. It has also come to the GET's knowledge that a former chair of the Commission of Ethics had to step down in 2013, when it was revealed that he had failed to declare property in the Russian Federation and abroad in his declaration of revenues, property and liabilities. This is illustrative of the need to improve the screening of MPs' declaration especially those called upon to hold special functions in the chambers, most notably chair of the State Duma Commission on Deputy Ethics.

95. In view of the regular cases of corruption brought against MP's, the GET considers that the way declarations on revenues, property and liabilities of MPs are verified should be reviewed in order to improve its efficiency.

96. Moreover, in addition to providing annual declarations, the GET takes the view that MPs should provide declarations not only upon joining the National Assembly, as is already the case, but also when leaving it and that these should be audited systematically, which currently does not appear to be the case. This would increase pressure on MPs to provide accurate and comprehensive declarations, knowing that there is a clear possibility that their declarations be subject to close examination. It would also contribute to increasing public confidence in the probity of MPs.

97. In view of the preceding paragraphs, GRECO recommends strengthening the system of declaration of revenues, interests, property and liabilities with an effective control mechanism for both chambers of the National Assembly (including verifications of sources of revenues of MPs).

98. The GET notes that the President can, of his own motion, decide that the asset declaration of an MP be subjected to scrutiny by the competent parliamentary committees. The Russian authorities consider that this is necessary to cover a number of circumstances such as when a person formerly a member of the executive becomes an MP and there is on-going verification of compliance with anti-corruption legislation or there is information on possible conflicts of interest. They also note that the power to propose and impose sanctions remains in the hands of the respective chambers. Taking a decision to initiate an investigation at such a high-level is, according to the authorities, an additional guarantee of the independence of the legislative authority. The GET does not agree with this position. In the system as it is, where investigations are within the remit of the competent parliamentary committees, it should be - and it is - possible to draw the committees' attention to the need of carrying out an investigation into a particular MP's asset declaration, while leaving the decision whether to actually take it further with the parliamentary committees. The possibility for the President of deciding directly to initiate an investigation into an MP's asset declaration to be carried out by parliamentary committees, which, according to the authorities, to date has not been used, appears not only unnecessary, but has also the potential of undermining the clear separation between executive and legislative powers.

99. Therefore, GRECO recommends that the possibility of initiating investigations into the declaration of revenues, interests, property and liabilities of an MP, rests exclusively with the competent parliamentary committees, in order to preserve the independence of the legislative power, both real and perceived.

100. As reported by the State Duma, in 2012 one deputy was stripped of his mandate for unlawful engagement in business activities. No cases of violation by the deputies of the State Duma, the members of the Federation Council of rules on conflicts of interests and provision of information on revenues and expenses over the last three years took place.

101. The State Duma has recently given certain powers to the Commission on Deputy Ethics to propose sanctions regarding violations by deputies of generally accepted ethical norms of conduct (reprimand, public apology, publicity in the media, and deprivation of the right to speak at one or several sessions). However, the only available sanction for breaches concerning the declaration of revenues, property and liabilities is the termination of the MP's mandate. The GET recalls the importance of having a range of sanctions the severity of which is proportionate to the seriousness of the breach, so as to ensure that minor breaches do not stay unpunished. The GET sees a clear risk that only the most severe breaches will be given proper consideration in the current system, whereas smaller breaches will not result in sanctions. The existence of a wider range of sanctions would also have greater deterrent impact, MPs knowing that no breaches will go unpunished. Consequently, GRECO recommends ensuring that a range of adequate sanctions can be imposed on members of parliament on grounds of integrity breaches related to declarations of revenues, interests, property and liabilities, including filing incomplete or incorrect declarations, that are effective, proportionate and dissuasive.

102. MPs enjoy immunity from arrest, detention (except for *in flagrante delicto*) and searches (apart from personal searches justified by the safety of the public) (Art. 98, Constitution and Art. 19, Law on the Status of MPs). Immunity will be waived by the State Duma or the Federation Council, as appropriate, on a proposal of the Prosecutor General. Immunity is dealt with in the Federation Council Regulations (Art. 8) and State Duma Regulations (Art. 185-1 to 6). An MP detained on suspicion of committing a crime, with the exception of detention on the crime scene, must be immediately released after being identified (Art. 449, CPC).

103. No criminal responsibility is incurred by MPs for not respecting prohibitions, liabilities and restrictions laid down in anti-corruption legislation. At the same time, in accordance with the CPC, criminal responsibility is established for offences such as bribery, abuse of power and abuse of office. The decision on whether to initiate a criminal case against an MP is taken by the Chairman of the Investigative Committee of the Russian Federation, which is the main investigative agency of the country, with the consent of either the Federation Council or the State Duma, as appropriate, and upon recommendation of the Prosecutor General (Art. 448, part 1, item 1, CPC).

104. Pursuant to State Duma Regulations (Art. 185.4), the Prosecutor General's recommendations to waive immunity are first considered by the Committee on the Regulations and Organisation that can decide to prepare a draft resolution on waiving the immunity of a deputy. This draft resolution will be considered at a plenary session in the presence of the Prosecutor General and the deputy whose immunity is discussed, who will be given an opportunity to speak and answer questions from other deputies. Decisions on giving consent on waiving immunity are taken by a majority vote – either secret or not – of the total number of deputies and formalised by way of the resolution prepared by the above-mentioned Committee. If the criminal case is closed or proceedings are discontinued, another resolution revoking the resolution waiving immunity will be adopted at the next session and transmitted to the Prosecutor General or relevant court within three days.

105. Similarly, under Federation Council Regulations (Art. 8), the Prosecutor General's recommendations to waive immunity are first considered by the Committee on the House Rules and Parliamentary Performance Management and the Committee on Constitutional Legislation and Civil Society Development which both have to prepare reports. The matter is put on the agenda of a regular session of the Federal Council at the request of the competent committee(s) and the Prosecutor General may be invited to attend this session. The MFC concerned is entitled to give explanations during the sessions of the committees and the Federation Council. The Federation Council's decision to waive the MFC's immunity is taken by a majority vote of the total number of members of the Federation Council, and formalised by way of a resolution which is transmitted within three days to the Prosecutor General.

106. When considering whether to grant consent to initiating a criminal case against MPs or to bringing them to court as defendants in a criminal case started against other persons or if a crime has allegedly been committed, the Federation Council or the State Duma may refuse to give their consent to the waiving of their immunity if they have established that the proceedings were prompted by an opinion they voiced or a position taken during a vote in the Federation Council or the State Duma or are connected with other lawful actions carried out in accordance with their status as MPs. Such a refusal excludes any criminal proceedings against the MPs concerned (Art. 448, part 4, CPC).

107. According to state statistical reporting, in 2016, 12 persons holding positions in the Federal Assembly were subjected to criminal proceedings for corruption related offences (in 2015, six persons; in 2014, seven persons; in 2013, eight persons). According to the Prosecutor General's Office, in 2013 and 2015 there were no convictions in first instance courts against MPs and in 2014 there was one conviction.

108. The GET takes the view that immunity of members of Parliament, insofar as it goes beyond their protection of free speech, opinions and voting in Parliament (non-liability) and provides special legal protection against arrest, detention and prosecution (inviolability), may sometimes present obstacles to an efficient enforcement of criminal provisions against corruption.¹⁴ Even if MPs' immunity is regularly lifted by Parliament in

¹⁴ On the subject of parliamentary immunity, see also recommendation xiii in GRECO's joint 1st and 2nd Evaluation Report (Greco Eval I/II Rep (2008) 2E) and the addendum to the compliance report (Greco RC-I/II

situations where they are suspected of having committed an offence, the procedure for doing so may delay law enforcement agencies from rapid investigations into corruption cases. Furthermore, an MP undergoing such a process will be informed of that process, which may yet be another obstacle to the gathering of evidence, etc. Early interventions and the use of investigative measures are particularly important tools when investigating corruption offences and crucial for the possibility to prosecute at a later stage. Such measures cannot be applied against MPs in the Russian Federation without the prior lifting of their immunity, unless they are caught in the act of committing an offence, and this procedure has been described as a lengthy process by interlocutors met during the site visit. Whilst it is mindful that this type of immunity (inviolability) is not per se necessarily problematic, the GET nonetheless is of the view that it should be ensured that the procedure for lifting of the immunity of MPs does not hamper the efficiency of investigations into corruption cases involving MPs.

109. Under Art. 19(2)(a) of the Law on the Status of MPs, MPs enjoy immunity not only from criminal responsibility but also from administrative responsibility. However, immunity only concerns those administrative offences which have to be dealt with by a court and, as such, are closer to criminal offences (e.g. petty theft or illegal acquisition of drugs which do not amount to criminal offences) and can lead for instance to searches and detention, whereas the majority of administrative offences (e.g. traffic-related offences such as speeding) are imposed by administrative authorities and are therefore not covered by immunity.

Advice, training and awareness

110. All regulatory legal instruments laying down restrictions and prohibitions related to performance by MPs of their functions, the procedure of provision by them of information on their revenues, expenses, property and property-related liabilities, as well as those of their spouses and minor children, and the rules on prevention of conflicts of interest are posted on the official websites of the Federation Council and the State Duma. They are also available in the legal reference systems and data bases (such as "Garant" and "Consultant Plus"), as are federal laws and other legal instruments regulating issues of combating corruption.

111. Deputies of the State Duma may obtain advice from the Central Office of the State Duma and the Commission on Revenues, Property and Liabilities of deputies. Every MFC may consult the Commission on Revenues, Property and Liabilities of MFC, the Committee on Regulations and Parliamentary Performance Management, and structural subdivisions of the Central Office of the Federation Council (Legal Administration, Civil Service and Personnel Administration).

112. During the site visit, the GET was informed that the organisation of training on integrity issues for new deputies of the State Duma is in the sole hands of the faction (parliamentary group) to which they are affiliated. The factions met by the GET stated that each of them organised induction programmes for new MPs belonging to the same faction. However, the GET is of the view that this presents certain risks when it comes to ensuring that all new deputies, irrespective of their faction affiliation, receive equal training on integrity issues, for instance on how to manage potential conflicts of interest, incompatibilities and accessory activities, third party contacts, gifts, asset declarations, etc. Furthermore, the GET considers that training and awareness raising activities on integrity issues, such as conflict of interest, should be organised on a regular basis for all MPs, and not only as an induction programme for new MPs. This is all the more important considering the need to establish a code of ethics for MPs, as recommended above.

(2010) 2E, para. 52) which concluded this round in saying that the process for establishing specific and objective criteria for lifting parliamentary immunity has not been completed.

113. Therefore, GRECO recommends the provision of specific and periodic training for all members of parliaments, with a particular focus on new parliamentarians, on ethical questions and conflict of interest.

IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES

Overview of the judicial system

114. The judicial system of the Russian Federation is established by the Constitution and federal constitutional legislation. The principle of independence of judges is enshrined in the Constitution (Art. 10 on the separation of powers; and Art. 120 on the independence of judges).

115. This principle is also laid down in both the Law on the Judicial System and Law on Courts of General Jurisdiction, which prohibit laws or legal acts that would undermine the independence of the judiciary. In addition to guaranteeing the principles of separation of powers and independence of judges, the Law on the Status of Judges (LSJ) lays down a prohibition on exercising influence on judges on matters related to the exercise of their judicial functions and any interference is to be the subject of prosecution, in line with Article 294 of the Criminal Code.

The courts

116. The judicial system in the Russian Federation is composed of federal courts and courts of the constituent entities (Art. 4, LSJ).

117. The federal courts are:

- the Constitutional Court;
- the Supreme Court;
- the system of federal courts of general jurisdiction: the supreme courts of the republics, krai and region courts, the courts of federal significance and of cities/towns, the courts of autonomous regions, district courts, military and specialised courts;
- federal arbitration courts: arbitration courts of the regions, arbitration appellate courts, arbitration courts of the constituent entities and specialised arbitration courts.

118. Courts of the constituent entities are:

- the constitutional/statutory courts of the constituent entities;
- the justices of the peace, being the first instance courts of general jurisdiction in the constituent entities.

The Constitutional Court of the Russian Federation

119. The Constitutional Court rules on the conformity with the Constitution of federal laws, normative acts issued by the President, the Federation Council, the State Duma and the Government, constitutions/charters of constituent entities, etc. It verifies the constitutionality of laws that have been applied in specific cases and provides interpretations of the Constitution. It rules exclusively on matters of law and refrains from establishing facts when this falls within competence of other courts or bodies. It is composed of 19 judges who sit in plenary and two chambers.

The Supreme Court of the Russian Federation

120. The Supreme Court is the supreme judicial body in civil, criminal and administrative cases (i.e. general jurisdiction cases), as well as in cases regarding the resolution of economic disputes (i.e. arbitration cases) (Art. 126, Constitution; Art. 2, Federal Constitutional Law No. 3-FKZ of 05.02.2014 on the Supreme Court of the Russian Federation). It exercises judicial supervision over the activities of courts, and provides guidance on practice matters. As a court of first instance, it considers cases on economic disputes between federal public authorities and public authorities of constituent entities,

between supreme public authorities of constituent entities, certain administrative cases, in particular, cases on challenges of normative legal instruments, and issues of change of venue for criminal cases. As a court of appeal and cassation as well as a supervisory instance, the Supreme Court considers civil, criminal and administrative cases, as well as cases of economic disputes, in case of new or newly discovered facts.

121. In addition, the Supreme Court exercises the right of legislative initiative on questions related to its authority and remit (Art. 104, part 1, Constitution).

122. The Supreme Court consists of (i) the Plenum (115 judges, representing the total of Supreme Court judges), which adopts resolutions on the interpretation of specific provisions of the law; (ii) the Presidium (13 judges); and (iii) the Chambers (normally composed of three judges), namely the Appeal Board; the Judicial Boards on Administrative Cases, Civil Cases, Criminal Cases, Economic Disputes and Military Cases.

Courts of general jurisdiction

123. Supreme courts of republics/krai, regional courts, federal significance city courts, courts of autonomous regions and courts of autonomous districts are federal courts of general jurisdiction that hear cases as courts of first, appellate and cassation instances, in the presence of new or newly discovered facts, and carry out other powers according to federal law. They are directly superior judicially to district courts acting on the territory of the respective constituent entities.

124. District courts are federal courts of general jurisdiction, which consider all criminal, civil and administrative cases at first instance, except for cases falling within the competence of other courts pursuant to federal law. In cases stipulated by federal law, district courts consider cases of administrative offences. District courts consider cases on account of new or newly discovered facts. Furthermore, they are directly superior to justices of the peace (see below) acting on their judicial district and consider on appeal their decisions.

125. Justices of the Peace are a constituent entity court of general jurisdiction. They hear civil, administrative and criminal cases as a first instance court, such as criminal offences with a maximum punishment of three years' imprisonment; the issuance of court orders; family law cases (with some exceptions); property disputes (with some exceptions); determination of an order of use of property; administrative offences referred to their competence by the Code of Administrative Offences and laws of the constituent entities, etc.

126. Military courts are federal courts of general jurisdiction. They exercise judicial functions within the armed forces, other forces and bodies where the military service is provided for by law. Within their area of competence, military courts consider cases as court of first instance, appellate and cassation.

Arbitration courts

127. Justice in the area of entrepreneurial and other economic activities is exercised by arbitration courts. District arbitration courts/arbitration cassation courts, arbitration appellate courts, arbitration courts of the constituent entities and specialised arbitration courts form the system of arbitration federal courts. Since 2014 the Supreme Court is the highest judicial body in arbitration cases.

128. In July 2013 the Intellectual Property Rights Court was set up as a specialised arbitration court that considers within its competence as a court of first and cassation instances cases on disputes relating to intellectual property rights protection.

Judicial Council of the Russian Federation and other self-regulating bodies

129. The All-Russian Congress of Judges is the highest self-regulating body of the judiciary, which is composed of elected representatives of judges of different court levels. It meets every four years to adopt resolutions on general matters and to elect the Judicial Council, the Higher Judges Qualification Board and the Supreme Examination Commission. At constituent entity level, there are also judicial conferences, gathering representatives of the different courts at constituent entity level, which take decisions related to the judicial community in each constituent entity.

130. The Judicial Council is the main self-regulating body of the judiciary, which operates on a continuous basis. It is composed of 128 judges elected by the Congress of Judges. It meets in plenary at least twice a year. The Judicial Council's Presidium is composed of 17 judges, meeting on average four times a year. Within the Judicial Council, the following commissions act on a permanent basis: (i) ethics commission, which summarises and analyses the experience coming from the application of the Code of Judicial Ethics in the different regions of the country and submits issues to the Judicial Council's Presidium for consideration; and (ii) disciplinary commission. The main task of the commissions is to take part in the implementation of the state anti-corruption policy, to contribute to the observance by judges of restrictions and prohibitions, requirements on prevention and settlement of conflicts of interest by checking reports on conflict of interest in extra-judicial activities, and to involve them in active participation in the implementation of measures on corruption prevention. Their decisions are submitted to the Presidium before going to the Plenary. At the constituent entity level, there are also judicial councils, elected by the conferences of judges and representing the different levels of courts, that deal with matters concerning the judiciary in the constituent entities between sittings of the conferences of judges.

131. The qualification boards of judges are established at federal level (Higher Judges Qualifications Board, HJQB) and at the level of constituent entities (Judges' qualification board, JQB) and are crucially involved in the selection, appointment, promotion and dismissal of judges, as well as in disciplinary procedures. The HJQB is composed of 18 judges of various courts (elected by secret ballot at a Congress of Judges sitting), 10 representatives of the public (appointed by the Federation Council) and one representative of the President (appointed by him). The JQBs are composed of 13 judges of various court levels (elected by a secret ballot at a Congress of Judges sitting), 7 members from the public (appointed by the legislative assembly of a constituent entity) and one representative of the President (appointed by him). HJQB and JQB members are elected for a term of four years and do not have to report to the agencies having elected them about decisions they have taken.

132. The qualification examination of candidate judges is organised and managed by the Supreme Examination Commission and, in constituent entities, examination commissions. The Supreme Examination Board consists of 21 members: five members from the Supreme Court; five members from amongst judges of courts of general jurisdiction; five members from amongst judges of arbitration courts; four members from amongst law professors and academic researchers; two members from the all-Russia private associations of lawyers. Examination boards of the constituent entities conducting qualification exams consist of judges of courts of general jurisdiction and judges of arbitration courts; law professors and academic researchers; and representatives of bar associations.

133. The Judicial Department of the Supreme Court deals with the administration of courts, such as the selection and training of judicial candidates. It provides support to the Judicial Council and the HJQB. Together with the Judicial Council, they have developed preventive recommendations on corruption related topics (e.g. asset declarations and gifts).

Categories of judges

134. In the Russian Federation, judges benefit from a unitary status. Within courts of general jurisdiction, judges are categorised by type of proceedings: criminal, civil and administrative. Within arbitration courts, differentiation at the level of court compositions depends on the type of disputes.

Recruitment, career and conditions of service

Appointment

135. Judges of the Constitutional Court and the Supreme Court are appointed by the Federation Council upon recommendation of the President of the Russian Federation (Art. 128, Constitution). Judges of other federal courts are appointed by the President of the Russian Federation, in accordance with the LSJ and the Law on the Judicial System. Justices of the Peace are appointed/elected by the legislative/representative state body of a constituent entity or elected directly by the population of the relevant circuit, in the manner established by the law of each constituent entity. Judges of constitutional/statutory courts of the constituent entities are appointed by a resolution of the legislative/representative state body of that constituent entity.

136. The mandate of judges of federal courts is not limited to a definite term, with the exception of justices of the peace who have a fixed term (see paragraphs 153-155). The tenure of a judge expires only upon reaching the age limit, which is 70 years. The LSJ lays down similar standards and stipulates that the tenure and the mandatory retirement age for judges of the constitutional/statutory courts of the constituent entities are fixed by the laws of the constituent entities.

137. As to qualification criteria to apply for the position of judge, in accordance with Article 4 of the LSJ, any citizen, who has reached the age prescribed by law;¹⁵ has the required higher education background in law; has the required legal professional experience and has no disease that precludes him/her from being appointed as a judge, may take the qualification exam. A person suspected or accused of committing an offence cannot apply. A person related to the chair or deputy chair of a court (spouse, parents, children, blood brothers and sisters, grandparents, grandchildren, as well as parents, children, blood brothers and sisters of the spouse) may not be a candidate for a position in that court.

138. The selection of candidates is done through a competitive process (Art. 5, LSJ). The first step is for the chair of the court where there is a vacancy to inform the relevant qualification board of judges (the HJOB¹⁶ and JOB¹⁷) within 10 days. The competent board then publishes a vacancy notice in the media within 10 days. Upon receipt of the applications, the JOBs carry out an initial verification of the authenticity of the documents supporting the application.

¹⁵ In principle, candidates must be above 25 years and have five years of professional legal experience. Constitutional Court judges must be over 40 years old and have at least 15 years' professional legal experience. Supreme Court judges must be over 35 years old and have at least 10 years' professional legal experience. Judges of the supreme courts of republics, krajs or regional courts, courts of the city with federal subject status, courts of autonomous region or courts of autonomous area, circuit military courts, arbitration area courts, arbitration courts of appeal, specialised arbitration courts must be over 30 years old and have at least seven years' professional legal experience. Judges of arbitration courts of constituent entities, constitutional/charter courts of constituent entities, district courts, garrison military courts, as well as justices of the peace must have be aged over 25 and have at least five years' professional legal experience.

¹⁶ For the Chair and Deputies to Chair of the Supreme Court; judges of the Supreme Court; chairs, deputy chairs of other federal courts (excluding the district courts); judges of arbitration district courts, arbitration courts of appeal, the Intellectual Property Rights Court, military courts.

¹⁷ For the chairs and deputy chairs of district courts; and judges of federal courts

139. The Supreme Examination Commission at federal level and examination commissions in constituent entities organise qualification examinations. They are compulsory for persons who are not judges and for judges who have not exercised for over three consecutive years. However, persons holding an academic title of candidate of legal sciences or doctor of legal sciences and who have been granted the title of “honourable lawyer of the Russian Federation” as well as judges who no longer exercise but meet the requirements of a simplified procedure laid down in Article 7.1 of the LSJ,¹⁸ are not required to take these examinations.

140. The procedure for qualification exams and assessing the knowledge of candidates is defined by the regulations of examination commissions, as approved by the Supreme Examination Board. They should include three theoretical questions concerning different branches of law, two tasks on judicial practice and a written assignment on case management. Examination commissions provide candidates with certificates of qualification, containing the examination results. Candidates have a right to appeal against decisions of an examination commission within 10 days from the date of receiving this certificate.

141. Once the qualification examination procedure is completed, the HJQB and the JQB decide whether to recommend one or more candidates to the chair of the court where the vacancy is. The materials submitted (application, documents provided by the candidate, examination results, etc.) have to be considered by the HJQB within three months and by the JQB within one month from the date of their submission. In addition, integrity checks regarding candidate judges are to be carried out by the JQB on the basis of both information obtained from different public bodies and a psychological assessment. Firstly, pursuant to Methodological Recommendations for JQB of the norms of legislation on combatting corruption, adopted by the HJQB on 26 January 2017, JQB request information from (i) the Prosecutor General’s Office; (ii) the Ministry of Interior Affairs; (iii) the Federal Security Service (FSB); (iv) the Federal Tax Service; (v) the Federal Bailiff Service; (vi) the Financial Monitoring Service; and (vii) other services where necessary. Secondly, a psychological assessment of candidates is carried out to reveal, *inter alia*, risks of breaches of integrity. They are undertaken in accordance with Order No. 44 of the Judicial Department of the Supreme Court of 17 March 2009, and include a psychological examination, a structured interview and “other methods, as needed”. Basic qualities that are sought through this assessment are high levels of legal awareness, conscientiousness, being principled, striving for high standards, commitment, good faith, discipline and honesty.

142. When no candidate meets the requirements prescribed by law, the board takes a substantiated decision refusing to recommend any of the candidates and publishes a new vacancy notice. A board’s decision can be appealed against on grounds of breach of the selection procedure and refusal to recommend, including on the merits of the decision.

143. At the outset, the GET would like to emphasise that the selection process of judges is crucial to ensure the independence of the judiciary and the impartiality of the justice system, which are intrinsic to the principle of rule of law and the fundamental right to a fair trial as enshrined in the European Convention of Human Rights (Art. 6). Not only should the process enable the selection of highly skilled candidates, but it should also ensure that the chosen candidates are personally reliable, which includes their being immune to external pressure as well as undue pressure from within the system. Another aspect is that they should, as well as being independent and impartial, be perceived as such by the public which is of paramount importance for the trust that

¹⁸ Results of the qualification exam are valid for three years upon passing them and upon appointment to the position of judge (throughout the term as judge and for three consecutive years calculated without interruption upon their having stopped exercising). Upon passing a qualification exam, a successful candidate can file an application on the basis of his/her recommendation to a vacant position with the competent qualification board of judges, which then reviews the authenticity of the documents submitted by the candidate.

the public will place in the justice system. This principle also needs to be reflected in the way judges are selected and this requires that the selection process be as transparent as possible.

144. The GET notes that a rather sophisticated process of selection of judges has been developed in the Russian Federation, based on a competitive examination. In this system, several stakeholders are involved in the process leading to the appointment of judges. The overall responsibility for selecting candidates falls in principle upon judges qualification boards, while the organisation of examinations is overseen by examination commissions. That said, this process is also largely dependent on the Presidential Commission on Preliminary Consideration on Judicial Candidates to the Federal Courts, before the actual appointments are made by the President.¹⁹

145. The GET notes that the HJQB and JQBs are composed in part by judges selected by the Congress of Judges, representatives of the public appointed by the Federation Council and a representative of the President. The members elected by the judges in both the HJQB and JQBs constitute the majority of members, which is to be welcomed. However, the GET came across information according to which the selection procedure lacks transparency, for example with members being regularly required not to disclose the meetings' agenda or the decisions taken.²⁰

146. Turning to the selection criteria, the GET acknowledges that integrity is taken into account as part of the general process of selection of judges by JQBs, including through psychological assessments. However, the GET considers that while there is a structured procedure for such assessments, there do not appear to be objective criteria defining integrity qualities and ethical conduct that are expected from candidates and known to them, more than general notions of attachment to principles, honesty, etc. In view of the perception amongst the general public regarding the level of corruption in the judiciary as well as the regular cases of corruption that are brought against judges, as acknowledged by the authorities (see paragraph 212), the GET once again stresses the importance not only of selecting highly skilled candidates, but also candidates whose integrity means that they are immune to external pressure, conflicts of interest, etc. In view of the foregoing, GRECO recommends that the integrity requirement for selecting, appointing and promoting judges be guided by objective criteria available to the public.

147. Once the decision of the board to recommend a candidate for a post of judge has been submitted to the relevant court's chair, the latter is to propose the appointment of the candidate to the vacant post. In case of disagreement with the board's decision, the court's chair rejects it, in principle with a substantiated justification for his/her disagreement. If the board confirms its original decision by a two-thirds vote, the court's chair has to propose the appointment of the recommended person. The next stage is for the chair of the court concerned or the Chair of the Supreme Court proposes to the President of the Russian Federation the appointment to the vacant position of the candidate recommended by the HJQB/JQB.

148. The GET also notes that chairs of courts are given a significant role in the selection process of candidates. They are the ones to start the recruitment procedure when there is a vacancy in their court, as there is no general competition organised at federal or local level to create a reserve list of judges country- or region-wide. They are also ultimately to submit the selected candidate for appointment by the President. Additionally, when the choice has to be made between several candidates, the chairs can express their preference to the JQB, which takes it into account before making their

¹⁹ The procedures for appointing judges to the Supreme Court and the Constitutional Court as well as justices of the peace depart from this process.

²⁰ See, for instance, "Appointing the judges: Procedures for Selection of Judges in the Russian Federation – ICJ Mission Report 2014", International Commission of Jurists (ICJ), p. 18

recommendation; this involvement of the chair of the court does not appear to be formalised. The JOB's recommendation is then formally sent to the chair of the court concerned who can reject it. In such cases, the JOB needs a two-third majority vote to be able to propose the same candidate once more, in which case the chair of the court has to comply. The GET was told during the site visit that in practice the court chair did not necessarily motivate his/her rejection.

149. According to the GET, while it is natural to include the court chairs at some point in the process of appointment, the way this is done should be clearly set out in the relevant regulatory texts so as to prevent any informal influence on the outcome of the process by court chairs. As it is, not only do they have a non-negligible margin of influence on the selection candidate proposed for appointment, but this role also risks resulting in the newly appointed judge feeling indebted to them.²¹ Further, it has been reported that chairs of courts exert influence on judges members of JOBs by reason of their strong hierarchical relationship and their role in career related decisions (see following section).²² In view of the above, the GET has some concerns about the absence of clear, detailed regulations on the role of the chairs of courts concerning specifically the selection process of judges (but also more generally on the career of judges coming under them as seen later in the report) and its detrimental effect on the transparency of these procedures.

150. As indicated above, an additional screening procedure of candidates is undertaken after the selection process led by the JOBs has taken place. This screening is carried out by the Presidential Commission on Preliminary Consideration of Judicial Candidates to the Federal Courts. The Presidential Commission is composed of 15 members: the Chair of the Supreme Court (chair of the commission); four representatives of the Presidential Administration; representatives of the judiciary (Supreme Court; Higher Judges' Qualification Board; the Judicial Department; the Council of Judges), and the General Prosecutor's Office; the Ministry of Internal Affairs; the Federal Security Service (FSB); and the Civic Chamber. The Russian authorities explain the need for this additional step before appointment by the fact that JOBs operate at regional level and do not have the opportunity to request information about candidates' criminal record at federal level, which the Presidential Commission is able to do. During the site visit, the GET was informed that the Presidential Commission can even interview candidates and indeed gather further information from all relevant stakeholders (judiciary, law enforcement agencies, tax authorities, etc.). Moreover, the GET's interlocutors made it clear that the President's role in appointing judges was more than ceremonial and was in fact decisive, as the President could refuse to appoint the judges recommended by the JOB. This means that the Presidential administration is associated to the selection process not only in being represented by an appointee in JOBs (at regional level) but also through a strong presence of the executive in the Presidential Commission that carries out the ultimate selection. Moreover, integrity checks by JOBs already involve contacting federal authorities to obtain information on candidate judges, such as prior convictions or tax-related offences (see paragraph 141). The GET is mindful of the strong perception both in the Russian Federation and beyond that the judiciary is seen as not sufficiently independent notably from the executive.²³ Therefore, the GET considers that the powers of the executive throughout the recruitment procedure up to the final appointment of judges are such as potentially having a negative impact on judicial independence. Consequently, GRECO recommends that the process of recruiting judges be reviewed so as to better preserve the separation of powers and the independence of the judiciary vis-à-vis the executive by strengthening

²¹ See, for instance, ICJ Report (p. 39); Report to the UN Human Rights Council of the UN Special Rapporteur on Independence of Judges and Lawyers, 28 April 2014, doc. A/HRC/26/32.

²² See, for instance, ICJ Report (p. 17); Report by the Commissioner for Human Rights of the Council of Europe, Following his visit to the Russian Federation from 3 to 12 April 2013, CommDH(2013)21, paras. 49-51

²³ See, for instance, ICJ report (pages 24-25); Report of the Council of Europe Commissioner for Human Rights, CommDH(2013)21, para. 53

significantly the role of the judiciary in the selection process of candidate judges leading to their appointment by the President.

151. Insofar as candidate judges to the Supreme Court are concerned, the Chair of the Supreme Court proposes the appointment of a candidate recommended by the HJQB, the President decides whether to present the recommended candidate judge to the Federation Council, which is responsible for appointing them.

152. Proposals regarding candidates for the position of judge at the Constitutional Court may be submitted to the President by MPs as well as the legislative/representative bodies of the constituent entities, the highest judicial agencies and federal legal offices, legal communities, legal scientific and educational agencies. The Federation Council considers appointments within 14 days from receiving the recommendation of the President. Each judge is appointed by a secret ballot majority vote.

153. By contrast, justices of the peace are either appointed or elected for a fixed term by the legislative or representative state bodies of constituent entities, or elected by the citizens of the corresponding judicial district, depending on the procedure chose by each constituent entity. At least six months prior to the expiration of their term and, in case of early termination, no later than 10 days from the date of vacancy, the vacancy is to be published in the media. Justices are appointed/elected for a term defined by the law of each constituent entity, which must not exceed five years. Upon the expiry of this period, the person holding the position of justice has the right to stand as candidate for reappointment/re-election for a term defined by the law of the corresponding constituent entity but which cannot be less than five years.

154. While mindful that justices of the peace are appointed or elected at the regional level according the law of each constituent entity, the GET notes that they, as first instance judges, apply federal law and that their status is dealt with by federal law (namely, the LSJ). Therefore, the GET considers it appropriate and necessary to address here the question of their tenure even if, under federal law, it is ultimately for the constituent entities to regulate it.

155. During the site visit, the GET learnt that, as first instance courts of general jurisdiction operating at local level, justices of the peace deal with approximately 80% of overall litigations. The GET notes that justices of the peace are the only judges that do not enjoy life tenure in the Russian Federation. On the contrary, they need to be appointed or elected, generally by constituent entities' assemblies, for a renewable term that can be as short as five years, and even less for their first term, depending on the constituent entity's legislation. Having this in mind, the GET fears that such a system risks, especially with such short terms of office, creating opportunities for undue pressure, whether real or self-imposed, on justices of the peace seeking reappointment/re-election, thus leading potentially to skewed decision-making. The GET is of the strong view that judges being given indefinite terms, once competitively selected on their skills, provides an important guarantee of their independence and their being free from exterior influence. The GET refers to GRECO practice, which is supported by international standards,²⁴ which underlines that security of tenure and irremovability are key elements of the independence of judges, as does the Russian Constitution which enshrines the principle of irremovability of judges (Art. 121). In this context, it is also recalled that GRECO has established a practice in respect of what is to be considered a reasonable probation period for judges before being permanently appointed. In view of the foregoing, GRECO recommends that the federal authorities seek ways to

²⁴ See, in particular, Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, available at: [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CM/Rec\(2010\)12&Language=lanEnglish&Ver=original&BackColorIntranet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CM/Rec(2010)12&Language=lanEnglish&Ver=original&BackColorIntranet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383&direct=true)

strengthen the security of tenure of justices of the peace, involving the constituent entities.

Promotion, transfer, suspension and dismissal

156. As to the promotion of judges, as noted previously, all judges benefit from a unitary status and “preferment” does not apply. Nonetheless, alongside this principle, judges may be appointed to a higher-level court or to a position with management duties within the same court (such as chair or vice-chair).

157. In the light of an assessment of (i) their professional knowledge and abilities to implement it in exercising justice, (ii) judicial performance, (iii) professional and moral qualities and, subject to their adherence to the requirements of the Code of Judicial Ethics, federal judges may be awarded a higher qualification grade (Art. 20.2, LSJ). Following a qualification attestation carried out by JQBs, judges can be awarded a higher qualification grade (ranging from the lowest, 9th grade, to the 1st, and finally the highest grade for the Chair of the Supreme Court), depending on the order of promotion and length of service in the relevant qualification grades as well as the relevant positions held by these judges.

158. As regards newly appointed judges and judges appointed to a post in a court of a different level, which entails being awarded a higher qualification grade, the chair of the relevant court must make a submission for a qualification attestation to the competent JQB. The JQB can either promote the judge to a regular or special grade or keep him/her in the same grade. When the judge remains in the same grade, the next qualifying attestation is carried out upon submission of the relevant court’s chair or upon the judge’s application, no sooner than one year and no later than three years after the decision on the qualification attestation conducted by the competent board.

159. From the outset, the GET has some concern about grading systems applied to judges as they may lead hierarchy and accountability within the courts and between judges, which may potentially affect the independence of the individual judges. The GET considers it important that such a system be guided by objective safeguards.

160. The GET notes that the awarding of higher grades to judges falls within the remit of JQBs. It also understands that, while judges can propose themselves for promotion, in practice it is usually for courts chairs to propose that a judge be assessed by the competent JQB for the purpose of obtaining a higher grade, even if the LSJ does fix some maximum periods within which assessments must take place. There is a strict and hierarchical grading grid from the first to the highest grades with the number of years to be spent on each grade, albeit with some exceptions: the length of the term in the first, fifth and seventh grades is not fixed if it is the maximum grade for the position occupied. At the same time, the court chairs can play an important role in the career of judges under them by supporting them for promotion,²⁵ attending meetings of the JQBs and challenging a JQB’s decision to grant a certain grade on the basis of procedural violations, including the court chairs’ right to be informed about issues discussed at the board’s meeting that fall within their competence and to express their opinion on them.²⁶ The GET notes that, while the general role of court chairs is defined in Art. 6.2 LSJ, there is no mention of their actual role in the promotion procedure. The procedure for JQB’s assessment for the promotion of judges only appears to indicate what information should accompany a court chair’s recommendation for promotion (Regulations on the procedure for the work of the HJQB, 22 March 2007 and amended on 19 May 2016). The GET is therefore of the view that the role of court chairs in the career of judges working under

²⁵ See, for instance, ICJ report, p. 46; Report of the Council of Europe Commissioner for Human Rights, CommDH(2013)21, para. 49.

²⁶ See ICJ report, p. 47, referring to Decision of the Supreme Court of the Russian Federation No. AKPI13–910 of 20 September 2013

them should gain in being better defined in order to avoid any possibility of pressure or perception of pressure on judges under them, especially with respect to newly appointed judges (see paragraphs 148, 149 and 158).

161. The GET also observes that the Supreme Court's Chair can propose the promotion of supreme court judges without following the order of promotion and length of service in the relevant grades when they are considered to have made "a significant contribution to the administration of justice and remarkable achievements in the judicial system". The GET considers that this extraordinary procedure can lead to far-going discretion if not guided by clear, objective criteria and duly substantiated decisions.

162. Judges' irremovability is enshrined in Article 121 of the Constitution and the transfer of judges to another position or another court without their consent is prohibited (Art. 15, part 1, Law on the Judicial System; Art. 12, LSJ). However, the situation of justices of the peace is different as seen in the previous section, in that they serve for short, renewable terms of office.

163. The term of a judge may be suspended or terminated only according to the rules fixed by federal law and by a decision of a JQB, except in cases where the term ends as a result of its normal expiry or when a judge has reached the statutory age limit (Art. 121, Constitution).

164. A judge's functions are suspended by decision of a JQB, for instance when a criminal case has been initiated against him/her or if he/she runs for an election at local or federal levels. They continue to receive their monthly remuneration and enjoy immunity. When the grounds for suspension cease, they are reinstated. A judge whose mandate has been terminated for one of the two above-mentioned grounds or who has been denied the suspension may lodge an appeal with the HJQB within 10 days.

165. The resignation of a judge is understood as an honourable termination of a judge's mandate as opposed to dismissal. To benefit from the right to resign, a judge must, *inter alia*, be incapacitated due to health or other valid reasons preventing the exercise of their mandate; have reached the mandatory retirement age or the expiration of their term when limited in time; or have refused transfer to another court as a result of the abolishment or reorganisation of the court or if they are related to the chair or deputy chair of the same court.

Conditions of service

166. Courts are financed exclusively from the federal budget (Art. 124, Constitution). The independence of judges is ensured through, *inter alia*, an adequate financial and social support commensurate to their status (Art. 9, LSJ). Their monthly remuneration consists of a sum linked to their position, another to their grade, a cash reward, a supplement linked to their length of service, another supplement for holding a law degree or PhD in law, the academic rank of associate professor or professor, the title "Honoured Lawyer of the Russian Federation", as well as – when and if it is required by federal law – a monthly supplement for their knowledge of foreign languages and use in the performance of their official duties (Art. 19, LSJ).

167. The gross annual salary of justices at the beginning of their career (as of 1 January 2016) is RUB 1 057 000 (approximately EUR 17 000), and the gross annual salary of a judge of a regional court is RUB 1 801 000 (approximately EUR 29 000). End-of-year bonuses and other payments appear to be sometimes larger than annual salaries, and court chairs enjoy some discretion in deciding on such matters.²⁷

²⁷ See, for instance, Report of the Council of Europe Commissioner for Human Rights, CommDH(2013)21, p. 16

168. Serving judges are also provided with additional benefits (Art. 19 and 20, LSJ), including medical assistance; health insurance and insurance on their property; work-related travel; and accommodation. Information on specific additional benefits received by judges is reflected in their income declaration.

169. Severance payments correspond to the monthly cash remuneration at the most recently position held for a full year by the judge concerned, but no less than the six-fold amount of the monthly cash remuneration on the position to be left is payable to the judge who has resigned or has been removed. If the court is abolished or reorganised, or if the judge is a blood relation or related through marriage to the chair or deputy chair of that court, a judge may be transferred to any other court, with his/her consent and his/her monthly remuneration will be paid. In case the judge refuses being transferred, he/she is entitled to resign and in that case, compensation corresponding to 12 monthly remunerations on the last position held is also payable to him/her.

Case management and procedure

170. The distribution of cases amongst the various courts is primarily determined by the jurisdiction of each court.

171. The composition of a court panel is decided taking into account the judges' workload and areas of practice as well as the procedure that will preclude influence on its composition by persons concerned with the outcome of a trial; this includes the use of an automated information system. Criminal cases are considered by a panel or a single judge. A similar approach is followed when deciding on the composition of civil, administrative and arbitration courts.

172. The provision governing the use of an automated information system for allocating cases amongst courts was introduced by Federal Law No. 228-FZ of 27.07.2010 on amendments to the Arbitration Procedure Code of the Russian Federation and Federal Law No. 140-FZ of 14.06.2011 on making amendments to Article 14 of the Civil Procedural Code of the Russian Federation and Article 30 of the Criminal Procedural Code of the Russian Federation. The authorities indicated that the legislator was guided, *inter alia*, by Council of Europe standards.²⁸ An automated allocation of cases is carried out by means of the State Automated System "Justice" with the use of a module of allocation of cases of the sub-system "Court Records" and of the sub-system "Court Records and Statistics".

173. A court's chair can take a number of decisions on the management of the court's work and the distribution of duties amongst deputy chairs and judges under him/her but, according to the authorities, this does not mean that he/she has discretion to transfer a case from a judge/panel of judges to another without reasons provided for by procedural law.

174. As regards safeguards in place to ensure that judges deal with cases without undue delay, parties to proceedings or persons having submitted individual claims on the subject matter of a dispute as third parties and other interested persons can apply to a court with a claim for compensation in case of violations of the right to a trial within reasonable time. Provisions to the effect that legal proceedings and the enforcement of court decisions take place within a reasonable time and that the statutory time limits may be extended, are reflected in procedural laws. The court's chair, on his/her own initiative or on application by parties to the proceedings, can issue a ruling on speeding up the case's consideration (Art. 10, Code of Administrative Offences; Art. 6.1 CPC; Art. 6.1, Arbitration Procedure Code). Following applications on speeding up proceedings,

²⁸ Council of Europe Committee of Ministers No. R Recommendation Rec(1994)12 on Independence, efficiency and role of judges of 13 October 1994, and Recommendation CM/Rec(2010)12 on Judges: Independence, Efficiency and Responsibilities of 17 November 2010.

the court's chair can request from the judge concerned information on the progress of the case and steps taken. Furthermore, according to Art. 123 CPC, parties to proceedings can file a complaint with a public prosecutor or the head of an investigatory agency in case of failure to observe the principle of a trial within reasonable time in pre-trial proceedings. However, the GET notes that there are around 100 judgments of the European Court of Human Rights in respect of the Russian Federation with findings of violation of Article 6(1) ECHR on account of the length of proceedings. It therefore invites the authorities to maintain their efforts in implementing the legislation to avoid lengthy proceedings.

175. As a general rule, the examination of cases in all courts is open to the public (Art. 123, Constitution). Persons, including representatives of legal entities, governmental bodies and local self-government bodies are entitled to attend a public court hearing and to record the progress of litigation in the procedure. Examination in camera is allowed only in those cases specifically envisaged by federal law.

176. Court decisions are pronounced publicly, except in cases where it would affect the rights and legal interests of children in civil cases and in respect of administrative offences. Concerning criminal cases, a court sentence should be pronounced in open session. When dealt with in camera or in criminal cases concerning offences in the area of economic activities and provided for by the CPC, only the title and judicial disposition of the sentence may be pronounced publicly.

Ethical principles, rules of conduct and conflicts of interest

177. General principles, including of moral and legal nature, pertaining to the status of judge are enshrined in the LSJ, which contains the text of their oath.²⁹ The Code of Judicial Ethics (CJE) was approved in 2012 by the Congress of Judges. When preparing the draft, Council of Europe standards were taken into account.³⁰ In addition, the draft of the code was sent for opinion to the Ministry of Justice, the Civic Chamber, the Russian Union of Journalists, the Federal Chamber of Lawyers, the Association of Lawyers of Russia, the Independent Legal Expert Council and other organisations.

178. The CJE defines the principles of the professional activity and off-duty conduct binding on all judges. The basics of proper execution of justice include the principles of independence, objectivity and impartiality, equality, competence and integrity. It sets out a framework concerning the interaction of judges with the media, coverage of the work of a court and judges: judges should exercise restraint, ethics and discretion when dealing with the media, without excluding their right to give information about the procedural stages of given proceedings.

179. Regarding extra-judicial activities of judges, the code establishes a duty to avoid anything that would detract from the authority of the judiciary and raise doubts as to its impartiality and independence. There are a number of restrictions for judges relating to the exercise of legal practice, participation in social, political and business activities.

180. Measures to support those provisions are established in Article 12.1 of the LSJ, according to which judges, other than judges of the Constitutional Court, can be punished for committing a disciplinary offence in breach of the regulations of this Law and/or the CJE, undermining the judiciary's reputation and damaging the judge's own reputation (see paragraphs 215-216).

²⁹ "I solemnly swear to fulfil my duties honestly and conscientiously, to administer justice, to be subject only to the law, to be impartial and fair, as the judge's duty and my conscience command".

³⁰ European Charter on the Statute of Judges; Council of Europe Committee of Ministers Recommendation No. R (94) 12 on Independency, efficiency and role of judges; Recommendation CM/Rec(2010)12 on Judges: Independence, efficiency and responsibilities and the Bangalore Principles of Judicial Conduct.

181. General rules and procedures on conflict of interest involving judges are provided in the Law on Combating Corruption (Art. 10 and 11) as well as the LSJ (Art. 3(2)), whereby judges must, while exercising their mandate and in extrajudicial contacts, avoid anything that might affect the judiciary's reputation, their own reputation or give rise to doubts as to their impartiality, fairness and integrity.

182. Conflict of interest is understood, within the meaning of the Law on Combating Corruption, as a situation, where the personal interest (whether direct or indirect) of a judge affects or might affect the due performance of the duties of their office and where the contradiction between the judge's personal interest and the rights and legal interests of citizens, companies, society, municipal formations, constituent entities arises or might arise, with the risk of damaging the rights and interests of the aforementioned parties. Personal interest is understood as the possibility of obtaining, when performing their duties, material benefits or undue advantages for themselves, members of their family or other persons and organisations with which they are bound by financial or other liabilities. In judicial practice, such circumstances include: friendly or hostile relations between the judge and one of the parties; the finding of a previous relationship of the judge and any of the parties involved; public statements of the judge on the merits before the end of proceedings; threats calling into question the possibility for a judge of making an objective decision.

183. In order to identify and prevent conflicts of interest when selecting candidates for vacant positions of judges, the competent JQB should pay special attention to potential conflicts of interest or situations calling into question the impartiality of a judge, including in the following cases: a judge's spouse or a close relative of one of them is involved in a case under proceedings in the court where the vacancy is; the judge, his/her spouse or a close relative of one of them has an interest in the case under consideration, could significantly affect the course of ongoing proceedings or is employed in the organisation which is a party to the proceedings, or a court decision can significantly affect their interests.

184. During the site visit, the GET's attention was drawn to the fact that in 2016 the IXth All-Russian Congress of Judges decided to remove three provisions connected to the impartiality of judges from the CJE. These provisions asked from judges: (i) to avoid situations where close relatives have an interest in the proceedings; (ii) to refrain from action that could lead to conflicts of interest; and (iii) to avoid situations where the personal relationship with parties to the proceedings may give rise to suspicions or give the impression of lack of impartiality. The Russian authorities state that these provisions were considered as duplicating procedural rules on recusal and, according to them, this impacted adversely candidate judges as it made it impossible to appoint a person, for example, whose relative worked as a lawyer or prosecutor. Nonetheless, the GET considers that these three provisions represent important safeguards for the impartiality, both real and perceived, of judges, which are common in judicial codes of conduct, in line with the principle that justice should not only be done but also seen to be done. Therefore, it does not see any contradiction in having these principles laid down in both the law and the Code of Ethics, whose aim is to be illustrative of the cardinal principles to be followed by judges in exercising their duties. Moreover, the Code of Ethics does not have the status of a regulation and would not take precedence over the codified recusal rules. In view of the above, GRECO recommends that the provisions connected with judges' impartiality and integrity (close relatives interested in the proceedings; action that could lead to conflict of interest; personal relationship with parties to the proceedings) which were removed from the Code of Judicial Ethics be reintegrated as safeguards for their impartiality and integrity.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities, post-employment restrictions

185. According to the LSJ (Art. 3, item 3), a judge cannot, *inter alia*, fill any other public positions; be involved in or support political parties; undertake business activities; carry out any other paid activity, other than academic, scientific and other creative activities;³¹ hold accounts, keep money and valuables in foreign banks abroad, hold and/or use any foreign financial instruments; be a lawyer or legal representative; use technical, financial and information tools intended for his/her official activity for any purpose other than linked to the exercise of judicial powers; accept, without prior authorisation of the relevant JQB, special awards of foreign states, political parties, public organisations and others; take part in business trips outside the country at the cost of individuals and legal entities;³² be a member of the management bodies and other bodies of foreign NGOs and their branches in the country.³³

186. During the site visit, the GET was told that the issue of whether judges were carrying out incompatible activities was checked before a judge's appointment and in the event of a change of position (whether to a position of the same grade or a higher grade). It is also indirectly verified, when such activities are remunerated, through the judges' annual declaration of revenues, expenses and property-related liabilities. The GET was informed that participation in NGOs for instance was not in publicly available parts of their declarations. Moreover, there does not appear to be any requirement imposing on judges to declare any extra-judicial activities they undertake, or specific control over such activities. Any breach would come up through reports filed by government authorities, public and civil organisations and citizens with the Judicial Council.

187. In view of the above, the GET considers that greater transparency is needed around accessory activities carried out by judges. This would contribute to ensuring that judges' independence and impartiality are not compromised by conflicts of interest arising from such activities, in line with the Judicial Code of Ethics (Art.5(3)). The GET underlines that it is crucial not only that judges are free from conflicts of interest, including through accessory activities, but also that they are seen as such by the public at large. To achieve this, the GET considers that judges should be required not only to declare any accessory activity they undertake, but also that such declarations be made public and monitored. This issue is covered by a recommendation in paragraph 208.

188. As regards post-employment restrictions, there is a direct prohibition on former judges to hold the positions of prosecutor and investigator, or to engage in advocacy and notarial activities. Former judges, who have not reached the compulsory retirement age, may engage in certain fields of activity not directly linked to judicial activities.

³¹ The performance of these activities must be to the detriment of their duties. The academic, scientific and other creative activities cannot be financed solely by foreign states, international and foreign organisations, foreigners and stateless persons, unless otherwise provided by federal law, international treaties or mutual arrangements.

³² Other than trips made pursuant to federal law, international treaties or mutual arrangements between the Constitutional Court, the Supreme Court, the Judicial Council, the constitutional/statutory courts of the constituent entities, and relevant courts of other states, international and foreign organisations

³³ Unless otherwise provided by federal law, international treaties or mutual arrangements between the Constitutional Court, the Supreme Court, the constitutional/statutory courts of constituent entities and the relevant courts of foreign states, international and foreign organisations.

Recusal

189. In the event of a conflict of interest, judges must apply for self-disqualification or make the parties to the proceedings aware of the existing situation (Art. 3(2), LSJ). Any breach will lead to disciplinary proceedings and sanctions. In parallel, there are a number of procedural rules governing the recusal of judges.

190. Under the Civil Procedure Code (Art. 16 and 17), the Arbitration Procedure Code (Art. 21), the Code of Administrative Proceedings (Art. 31), judges may not take part in the consideration of a case when they have been involved in a previous consideration of the given case, *inter alia*, as judge, public prosecutor, witness, expert; if they are related to a party in the case or is personally, directly or indirectly, interested in the outcome of the case, etc. The removal may be brought up by the parties, or may be considered on the court's own initiative (Art. 19, Civil Procedure Code; Art. 24, Arbitration Procedural Code; Art. 34, Code of Administrative Proceedings). The issue of the removal of a judge who is considering the case alone is resolved by this judge. If the case is considered by a court panel, the issue of the disqualification of the judge concerned will be decided by the panel in his/her absence. When a recusal motion is filed against several judges or against the whole court panel, it has to be decided on by the same court in its full composition. The procedure for the removal of a judge of an arbitration court (Art. 25, Arbitration Procedure Code) or conducting administrative proceedings (Art. 35, Code of Administrative Proceedings) is comparable. However, in arbitration proceedings, a motion for the recusal of a judge is not examined by the judge concerned but by another judge.

191. In addition, in administrative offences proceedings judges cannot try a case if they are relatives of the defendant, the victim, a lawful representative of a natural person or a legal entity, or a defence counsel of a representative; or are personally, directly or indirectly interested in the outcome of the case. When a judge has not been removed from the legal proceedings, parties to the proceedings can challenge that judge.

192. As to criminal proceedings, Articles 61 and 63 CPC prohibit the participation of a judge if, *inter alia*, he/she has participated in any capacity at first instance or appeal; he/she is a close relative or a relation of one of the participants in the proceedings; if there are other circumstances giving grounds to believe that he/she is personally, directly or indirectly, concerned with the outcome of the criminal case. Should he/fail to withdraw, a recusal motion may be filed by the public prosecutor and parties to the proceedings (Art. 62, part 2, CPC).

193. A recusal motion in criminal proceedings is to be decided on by the court in a ruling or resolution (Art. 65, CPC). If the criminal case is considered by a court panel, the motion is to be dealt with by the other judges in the absence of the judge against whom it has been filed. A recusal motion filed against several judges or the challenge concerning a court panel is resolved by the same court in its full composition. The recusal motion filed against a judge examining a case on his/her own, or the petition on the application of the measure of restriction or on the performance of investigative measures, or a complaint against the resolution on the refusal to institute a criminal case or terminate it, is resolved by the same judge. If the recusal motion is granted, the criminal case will be handed over to another judge or court panel.

194. The Russian authorities state that the above procedural rules clearly define the circumstances where recusal will have to take place. The possibility of only informing the parties is circumscribed to the situations which are not covered by these rules, such as when there is unsubstantiated information from third parties claiming there is conflict of interest (e.g. rumours, press article). The GET considers that the interaction between Article 3(2) LSJ on self-disqualification and the procedural rules on recusal would benefit from being clarified for instance through practical guidelines on the Code of Ethics.

195. Insofar as procedural rules on recusal are concerned, the GET considers that they are appropriately detailed. At the same time, the GET was informed during the site visit that when a decision was taken not to remove a judge/judges from a case after a motion for recusal had been lodged by the parties to the proceedings, there was no possibility of appeal and that the only avenue was to lodge an appeal against the decision taken by the contested judge(s) in the case in issue. The GET considers that there should be a possibility of appealing against decisions rejecting the request for removal as an issue separate from the subject-matter of the criminal case, whilst striking a balance between the interests of the parties and the need not to unduly delay the administration of justice. It considers that limiting the possibility of challenging the refusal of a judge to recuse him/herself to an appeal against the judgment taken in the case as a whole runs the risk of delaying the possibility of a challenge unreasonably.

196. In view of the foregoing, GRECO recommends that parties to proceedings whose motion for the recusal of the judge(s) deciding on their case and on this motion has been rejected be given the possibility of immediately appealing against such refusals without prejudice to the conduct of proceedings within reasonable time.

Gifts

197. A judge may not receive, in the exercise of judicial functions, remunerations not provided for by federal law (loans, monetary and other types of remuneration, services, payment for leisure, recreation, coverage of travel costs) from individuals and legal entities (Art. 3(3), LSJ). Gifts received by a judge during hospitality events, business trips and other official events are deemed to be federal property or property of the constituent entity and are to be handed over to the court where the judge holds his/her position. A judge who has handed over a gift can later purchase it.

198. During the site visit, the GET was told that judges were meant to declare all gifts, whether in kind or financial, as a matter of principle, in order to preserve the judiciary's reputation, in line with the CJE. At the same time, the GET notes that the current rules only cover expressly gifts received in their official capacity and not those that are for instance received in the margins of official events or business travels to influence a judge. Moreover, only financial benefits they receive need to be included in their declaration of revenues, expenses and property-related liabilities. From what the GET was told, this leaves in-kind gifts outside the scope of their declarations.

199. The GET considers that the general principle of the CJE requiring judges to refrain from doing anything damaging to the judiciary's reputation, if relevant, is not sufficient. The GET is of the view that rules on gifts and on declarations of revenues, expenses and property-related liabilities should make it an obligation for judges to report all gifts from third parties, whether financial or in kind, regardless of whether they have been received in the strict exercise of their judicial functions (e.g. gifts received during official events) or could be seen as related in some way with their judicial functions (e.g. gifts made to attract a judge's goodwill). Further guidance could usefully be developed for judges in this respect to cover the different situations they may face and how they are expected to tackle them. Therefore, GRECO recommends that practical guidance be drawn up on the requirement for judges to report all forms of gifts, including in kind, received from third parties.

Third Party contacts, confidential information

200. Judges' contacts with third parties are regulated to some extent in the CJE. Judges must decide on a case regardless of any third party's influence, respecting the rights of everyone involved in the case and treat all parties equally (Art. 8(2) and (3); Art. 10, CJE). They must inform the court's chair, the judicial community and the law

enforcement authorities about any pressure on their decision-making (Art. 8(3), CJE) and inform the parties about any oral or written extra-procedural communications they receive in connection with the case (Art. 8(4), CJE). Information on extra-procedural communications, including their content and information on their subject-matter, is posted on the court's website and the anonymization of the communications is not permitted.

201. Any interference with the judge's exercise of justice is subject to legal prosecution. It is prohibited to petition a judge outside the procedure in a case dealt with by him/her or to the court's chair, his/her deputy, the chair of the judicial assembly or of the judicial board (Art. 10, LSJ). A prohibition on extra-procedural communications made to judges is contained in all procedural codes.³⁴

202. Judges are not required to give any explanations as per the merits of the cases considered and in ongoing proceedings as well as to submit them to anyone for review, except in cases and in a manner prescribed by law (Art. 10, item 2, LSJ).

203. Judges cannot disclose information received in the course of the performance of his/her duties (Art. 11(6), CJE; Art. 3(3)(9), LSJ). Furthermore, judges are prohibited from expressing their opinions on issues which are or may be subject to judicial assessment. The GET also notes that the CJE contains guidance on judges' contacts with third parties. These rules ought to be subject to further guidance and training, as recommended below (see paragraph 229).

Declaration of assets, income, liabilities and interests

204. Judges provide annually, by 30 April of the year following the reporting year, information on their revenues, property and property-related liabilities, and that of their spouse and minor children, as of the end of the reporting period (Art. 8, item 1, Law on Combating Corruption; Art. 8.1, LSJ). Information is provided separately for judges, their spouse and their minor children. The dedicated form for judges' declarations contains sections on revenues; expenses; property (divided into sub-sections: real estate, vehicles); accounts in banks and other credit institutions; securities (divided into sub-sections: shares and other participation in commercial organisations and foundations; other securities); property-related liabilities (divided into sub-sections: real estate units used; financial forward commitments). Judges provide information on their revenues to the court where they hold their position, and justices of the peace provide information on their revenues to a district/city court within the territory of which their judicial district is located.³⁵ Part of the declarations is posted on the courts' official websites.

205. Information on a judge's revenues can be communicated to the media (Annex 5, LSJ). The enquiry of the media about a judge's revenues, expenses and property is filed with the Chair of the Constitutional Court or the Supreme Court and is then forwarded to the relevant court. The court's chair, upon receipt of such an enquiry, informs the judge concerned by the enquiry and provides the requested information to the media within 30 days. If publishing the requested information can bring pressure on the judge while he/she is considering a specific case and might impact on his/her independence while exercising justice, a written refusal to present this information is sent to the media.

206. Similarly to declarations submitted by MPs, the GET notes that the notion of "property-related liabilities" also covers loans from others or debts owed to others that

³⁴ Art. 8, Civil Procedure Code; Art. 5, Arbitration Procedural Code; Art. 7, Code of Administrative Court Proceedings; Art. 24.3¹, Code of Administrative Offences; and Art. 8.1, CPC.

³⁵ A Resolution of the Presidium of the Supreme Court of 26 June 2015 approved the Guidelines on filing by judges and the court staff of certificates of income, expenses, property and property-related liabilities of their spouses and minor children. These guidelines seek to ensure a uniform approach and minimise cases of provision of incomplete and inauthentic information.

do not necessarily have a property component. This term also encompasses financial and other interests.

207. During the site visit, the GET was informed that the declarations on revenues, expenses, property and property-related liabilities submitted annually by judges were published without any breakdown by sources of income. With a view to strengthening public confidence in the judiciary and the impartiality of judges, the GET is of the view that increased transparency regarding the revenues of judges would be advisable. The GET thus considers that more information on judges' revenues should be published on the courts' websites and that the public should not have to rely on the media making a formal request to have access, in particular, to the source of their revenues, notably regarding accessory activities. The Russian authorities consider that publishing information on the participation of judges for example in NGOs activities could have a negative impact, for instance by releasing information on where judges live and therefore increase opportunities to influence them. The GET recalls that such publication would take place with the understanding that personal data and information on judges' family members would not need to be made public, which should alleviate this concern.

208. In view of the above, GRECO recommends increasing transparency in respect of declarations on revenues, expenses, interests, property and liabilities by judges regarding sources of revenues, including from accessory activities, with due regard to their and their relatives' privacy and security.

Supervision and enforcement

209. Judges enjoy immunity (Art. 122, Constitution) and cannot be held criminally liable other than in accordance with the procedure established by federal law. The LSJ (Art. 16) regulates judges' immunity in detail. Their immunity includes the judge in person, his/her dwelling and office premises, personal and service vehicles, documents, luggage, property and correspondence (Art. 16.2, LSJ).

210. Judges may not be answerable for an opinion expressed when administering justice or in a court decision, save when it has been established that the judge was guilty of abuse of powers or delivering a deliberately unjust judgment, resolution or decision (Art. 16.2, LSJ). The GET acknowledges that this kind of immunity as a necessary safeguard provided to judges in the exercise of their judicial duties.

211. The GET notes however that there is a procedure for initiating criminal proceedings against a judge (Art. 16.3, LSJ), which applies to any criminal offence allegedly committed by a judge and requires that the Chair of the Investigation Committee decides on whether to launch investigations and prosecutions against a judge only with the consent of the competent JQB.

212. The Russian authorities report that the procedure for engaging judges' criminal responsibility has been made easier by the adoption of several laws in connection with the ratification of the Criminal Law Convention on Corruption and the adoption of the Law on Combating Corruption.³⁶ According to statistics provided by the authorities, JQBs have granted their consent to lifting the immunity of judges in close to 90% of cases submitted to them. The Russian authorities indicate that, from the information of the Investigative Committee and other law enforcement authorities, the existing mechanisms for bringing judges to justice have not encountered any practical difficulties and a significant number of judges are brought to justice, including for corruption offences.

³⁶ Law No 274-FZ of 25.12.2008 on amendments to certain legislative Acts of the Russian Federation in connection with the adoption of the Federal Law on Combatting Corruption; Law No. 280-FZ on amending certain legislative Acts of the Russian Federation in connection with the ratification of the UN Convention against Corruption of 31 October 2003 and the Criminal Law Convention on Combatting Corruption.

213. Leaving aside the immunity of judges related to the exercise of their judicial duties, which is a legitimate way to protect judges, the GET is concerned that judges also enjoy another form of immunity, i.e. that consent from a JQB is also required before any criminal investigation and prosecution can start. This goes beyond a strict functional immunity connected to the administration of justice. While fully subscribing to the fact that judges may need protection from inappropriate disturbance in carrying out their judicial duties, the GET firmly believes that the current legislation is unnecessarily far-going. The GET notes that the authorities have indicated that a majority of these cases have led to the lifting of this immunity. Even so, such a procedure will inevitably delay and may block the possibility of carrying out investigations into corruption offences. The GET takes the view that offences with no connection to the administration of justice should be subject to investigation and prosecution without the need for a specific consent from the judiciary as a main rule.

214. In view of the foregoing and with reference to Guiding Principle 6 of Resolution (97) 24 of the Committee of Ministers of the Council of Europe on the twenty guiding principles for the fight against corruption, GRECO recommends that the immunity of judges be limited to activities related to their participation in the administration of justice ("functional immunity") to the extent possible.³⁷

215. Judges³⁸ can be punished for disciplinary offences (Art. 12.1, LSJ), i.e. an action or omission while performing their judicial duties or in extra-judicial activities whereupon there has been a breach of the regulations of the LSJ and/or the CJE, undermining the judiciary's reputation and damaging the judges' own reputation.

216. Disciplinary proceedings are initiated on the basis of a recommendation of the chair of the court where the judge is in post or the next higher court, an appeal of the body of community of judges or a petition from the public to the competent JQB. concerning the latter, if the petition is sufficiently substantiated, the verification of the complaint is entrusted by the JQB to an ad hoc commission (composed of members from the JQB and the Judicial Council, representatives of the public and JQB officials) or to the chair of the court concerned or the next higher court. The ad hoc commission performs the necessary examination (e.g. available materials evidencing the disciplinary offence). It then produces a report with conclusions on the well-foundedness of the complaint and the presence of the elements defining the disciplinary offence. The report is presented to the JQB, which can either approve the conclusions directly or perform additional checks. If the JQB finds the offence established, it imposes a disciplinary penalty on the judges concerned in the form of an admonition, a warning or the early termination of their mandate. Decisions of JQB can be appealed before the HJQB.

217. In addition to the aforementioned disciplinary procedure, the Judicial Council's specialised commission checks reports of conflicts of interest involving judges, including in carrying out accessory activities, on the basis of applications lodged by public authorities, private organisations and individuals. The number of complaints has risen from 14 in 2015 to 100 in 2016. The results of the investigations are presented to the Judicial Council and communicated to the judicial councils of the constituent entities. If sanctions are necessary, the results are sent to the JQBs.

218. Furthermore, there is a separate mechanism of sanctions regarding violations by judges of the obligation to provide information on revenues.³⁹ In case of failure of a judge to provide the required information on revenues and expenses in time or providing incorrect information, the chair of the court where the judge is in post can apply to the Judicial Council, suggesting to conduct a review.

³⁷ On the immunity of judges, see also GRECO's Evaluation Report on the Russian Federation in the framework of the Joint First and Second Evaluation Rounds, [Greco Eval I-II Rep \(2008\) 2E](#).

³⁸ With the exception of Constitutional Court judges.

³⁹ Decree of the Presidium of the Supreme Court of 18 March 2015.

219. The decision on examining the information provided by judges on their revenues and expenses and those of their spouse and minor children depends on sufficient information revealing that, during the reporting period, they have made transactions to purchase a plot of land, other real estate units, vehicles, securities or shares for an amount exceeding the total income of that judge and his/her spouse over the three years preceding the reporting period. This information may be provided by, *inter alia*, law enforcement bodies, state bodies, local self-government bodies, political parties, NGOs, the Civic Chamber and the media. Anonymous information may not serve as a ground for conducting a review.

220. A preliminary examination of the information provided by the judge is carried out by the court staff member who records it and will call the attention of the judges to technical errors. Upon expiration of the reporting period, the relevant information is transferred to the court's commission on reviewing the completeness and authenticity of information provided by judges on their revenues and expenses (hereafter, specialised commission).

221. Specialised commissions can meet, *inter alia*, a resolution of the Chair or First Deputy Chair of the Supreme Court, the chair or specialised commission of the relevant court on the authenticity and completeness of the information provided by a judge, or if written information has been provided, in particular by the bodies of the community of judges, the media; a proposal to raise the issue of the judge's disciplinary responsibility; matters related to a request by the media on access to information on a judge's revenues, expenses, property and property-related liabilities for publication. When conducting a review, specialised commissions may request information from, *inter alia*, the federal prosecution authorities, federal state bodies, state bodies of the constituent entities, local self-government bodies, and NGOs. In 2015 and the first half of 2016, 18 judges were heard by a specialised commission for serious shortcomings in completing their declarations, but disciplinary proceedings were not always initiated.

222. In addition to the review by specialised commissions, the Supreme Court may request from the relevant court copies of information provided by a judge on his/her revenues, expenses, property and property-related liabilities, as well as materials on the control over these expenses, and conduct a further review. As regards Supreme Court judges, reviews of the authenticity and completeness of information provided by them is carried out by ad hoc commissions.

223. According to the data from the state statistical reporting, in 2015 14 persons holding positions within the judicial bodies were prosecuted criminally for having committed offences related to corruption (in 2014, criminal proceedings on this count were carried out concerning 3 persons and, in 2013, concerning 2 persons). According to the official report of the Prosecutor General's Office of the Russian Federation, in 2015, first instance judgments of conviction were rendered in relation to 5 judges (in 2014, in relation to 1 judge, and, in 2013, in relation to 1 judge).

224. As regards judges of the Constitutional Court, in the absence of legal grounds, no enforcement actions for failure to observe anti-corruption prohibitions, restrictions and liabilities, including those related to prevention and settlement of conflicts of interests, have been applied to them.

Training and awareness

225. Pursuant to the Law on Combating Corruption and the latest National Anti-Corruption Strategy,⁴⁰ training sessions are organised in the Russian State University of

⁴⁰ Approved by Presidential Decree No. 460 of 13.04.2016

Justice for all judges. Lectures cover the issues of combating corruption, as part of the organisation of initial training and ongoing training of judges. Lectures also cover questions about the psychological stability of judges, the moral basis of judicial activity, and issues of combating and preventing corruption (in particular regarding conflict of interest). Issues pertaining to combating corruption are included by the faculty of the department of civil law in the teaching materials prepared as part of teaching work. The GET was informed that judges are to follow continuous training every three to five years. The programme on anti-corruption is also part of the curricula at region-level. According to the authorities, education and awareness-raising of judges on moral principles are conducted on an ongoing basis through round table meetings and discussion lectures.

226. As regards awareness-raising, the Judicial Department of the Supreme Court, in conjunction with the Supreme Court and the Constitutional Court, approved, in 2008, the Guidelines for completion by the judges and federal civil servants of the judicial system of certificates of income, property and property-related liabilities. These guidelines are designed to provide a common approach to the way judges of the judicial system fill out certificates providing information on their revenues, property and property-related liabilities, as well as that of their spouses and minor children. In 2015, the Presidium of the Supreme Court approved further guidelines on the matter.

227. Furthermore, according to Art. 3 CJE, judges can apply to the Judicial Council's Ethics Commission for clarification concerning ethical behaviour. No information was provided on how frequently this possibility was made use of.

228. The GET takes notes of the existing framework provided by the State University of Justice and recognised regional institutions in the regions for the initial and on-going training of judges. At the same time, during the site visit the GET was informed that further training efforts were needed particularly in favour of justices of the peace who, according to estimates, deal with 80% of the total of litigations. The GET is of the view that given that, as highlighted earlier in the report, justices of the peace are often exposed to risks of corruption, notably owing to their short renewable terms of office, it is crucial to develop a strong framework around training and counselling on issues such as ethics, conduct and conflict of interest. This does not exclude that other categories of judges would also benefit from such training.

229. In view of the foregoing, GRECO recommends that initial training and on-going training on corruption prevention issues, including on how to implement the Code of Judicial Ethics, be reinforced for all judges and that a system for training and counselling be made available to justices of the peace on matters relating to their expected conduct, prevention of conflicts of interest and the like.

V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS

Overview of the prosecution service

230. The Prosecutor's Office is a single, federal, centralised system of bodies exercising supervision over compliance with the Constitution and execution of laws (Federal Law No. 2202-1 of 17.01.1992 on the Prosecutor's Office of the Russian Federation, LPO). It is competent in all proceedings, whether criminal, civil, administrative or commercial. According to the LPO, the Prosecutor's Office is independent from the judicial, executive or legislative powers. Prosecution services exercise their functions independently of federal state bodies, constituent entities' bodies and local self-government bodies (Art. 4, item 2, LPO) and any influence exercised by these authorities as well as the media with a view to influencing prosecutors' decisions or hindering their activities is prohibited (Art. 5, item 1, LPO), and is subject to criminal responsibility (Art. 294, Part 2, Criminal Code).

231. There is a total of 36 978 prosecutors in the country. The prosecution system consists of the Prosecutor General's Office, the prosecutor's offices in the constituent entities, equivalent military and other specialised prosecutor's offices and also city and district prosecutor's offices, other territorial, military and other specialised prosecutor's offices (Art. 11, part 1, LPO). The Prosecutor General's Office is headed by the Prosecutor General, who has a first deputy and deputies, and is made up of chief directorates, directorates and divisions, composed of senior prosecutors and prosecutors. Prosecutor's offices in constituent entities are headed by prosecutors, assisted by first deputies and deputies. They are divided into directorates and divisions. Prosecutors of constituent entities can have assistants on special assignments. Similarly, prosecutor's offices in cities and districts are headed by a prosecutor, assisted by a first deputy and deputy prosecutors, heads of divisions, senior prosecutors and assistant prosecutors.

Recruitment, career and conditions of service

Recruitment and career

232. From the outset, the GET notes that, in comparison to many other GRECO member states, the Prosecutor's Office of the Russian Federation is a strongly hierarchical structure which, in more ways than one, bears similitudes with that of a military body (strict discipline, uniform, early initial recruitment, etc.). The GET underlines that it does not take a position on the type of organisation as such, but considers it important to keep its special features in mind as a backdrop to the forthcoming description and analysis.

233. As regards the appointment of prosecutors, the Prosecutor General and his/her deputies are appointed, upon nomination by the President of the Russian Federation, and dismissed by the Federation Council. Prosecutors of the constituent entities are appointed, upon nomination by the Prosecutor General and with the agreement of the constituent entities, and dismissed by the President. Prosecutors of cities, districts and other same level prosecutors are appointed and dismissed by the Prosecutor General. Other prosecutors are appointed and dismissed by the President (Art. 129, Constitution).

234. The term of office of the Prosecutor General is five years; the same person may be appointed twice. The term of office of prosecutors of constituent entities as well as that of city and district prosecutors is also five years. The Prosecutor General may extend their mandate for up to five years.

235. As regards the criteria in place to check the integrity of candidates for the position of prosecutor, when selecting candidates to prosecution bodies and appointing prosecution staff to superior positions, their knowledge, skills and abilities are correlated

with qualification profiles fixed by orders of the Prosecutor General. When entering an academy to work in the prosecutor's office and after graduating (when applying for a post), candidate prosecutors have to take an examination, including on their legal knowledge. In addition, a professional psychological assessment takes place when admitting candidates to the prosecution bodies and to the Academy of the Prosecutor General's Office and university prosecution institutes. According to the authorities, the psychological assessment pays special attention to possible risk factors showing a tendency to corruptive behaviour. The authorities also underline that qualifications expected for serving in the prosecution bodies include a high level of legal sense and moral convictions, integrity, observance of public morals, community spirit, and adherence to the state's interests.⁴¹ Moreover, there is a framework for reviews of the authenticity and completeness of information provided when applying for federal positions in the prosecution bodies, the appointment to which is carried out by the President and the Prosecutor General, as well as in cases of extension of the term of office of a prosecutor.

236. The authorities have specified that issues related to the transfer of prosecutors (promotion, rotation), raising a question on their dismissal (except for cases of resignation), fall within the competence of the officials who have appointed them. The rotation of heads of prosecutor's offices holding positions for more than ten years is prescribed, consideration being given to their professional experience and personal circumstances.

237. First, the GET notes that a distinctive feature of the Russian system is that the Prosecutor's Office is presented as a power entirely separate from the judiciary and functions according to strict hierarchy. Accordingly, initial selection of candidates is given significant importance. The initial selection of candidates joining the profession at entry level takes place before entering the Academy of the Prosecutor General's Office (or affiliated university institutes) and candidates usually apply straight after completing secondary school with a view to carrying out their whole career in the Prosecution services; they must sign a five-year contract upon joining the Academy. According to the GET, this contributes to creating a strong sense of *esprit de corps*. The GET notes that the recruitment procedure at entry level is organised in the form of a competitive examination but also places strong emphasis on the professional psychological assessment of candidates to evaluate their suitability to the requirements of the post (e.g. workload and stress) and also their possible tendencies to corrupt-like behaviour. The GET could not obtain clear information during the site visit on how this psychological assessment addresses the issue of integrity, and underlines that this leaves room to subjectivity in the selection process, even if there is also an initial evaluation of their legal knowledge. It would be advisable to lay down practical guidelines on the character traits that are sought so as to lessen the risk of marked disparities between psychological assessments.

238. From the site visit, the GET understands that while the higher posts of prosecutors are open to outside candidates who have not followed the training of the Academy of the Prosecutor General's Office but have relevant professional experience (experienced lawyers, for instance), in practice the great majority of posts are filled in internally through reserve lists based on the rank of the candidates and the positions to be filled; this system relies on in-house career progression and the fact that those candidate already in the prosecution services are subject to regular checks such as annual declarations of revenues, evaluations, specific training, etc. Moreover, there is no competitive examination but a selection process upon application. The GET is of the view that the procedure to join the prosecution service on the basis of other legal experience

⁴¹ Annex to the Regulation on procedure for arranging and holding professional psychological selection of candidates to the prosecution bodies of the Russian Federation and education in state educational institutions approved by order of the Prosecutor General of the Russian Federation of 15.09.2014 No. 493.

should be made more transparent so as to open up the profession to candidates with appropriate legal experience from outside the prosecution services.

239. In view of the above, GRECO recommends that the procedure of appointment to higher posts of prosecutors be made more transparent vis-à-vis candidates with relevant professional experience who are not part of the prosecution services, by using objective and predetermined criteria and an open recruitment procedure.

Conditions of service

240. The salary of prosecution staff consists of a basic salary; supplements depending on grade, length of service, special working conditions; supplements for difficult or stressful work or high achievement; allowances for possessing a higher degree and academic title in a specialist field relevant to the person's official duties, the title "Honoured lawyer of the Russian Federation"; a monetary incentive based on quarterly and yearly performance; any other payments provided for by law and other regulatory legal instruments (Art. 44, LPO).

241. The LPO stipulates that the salary of the Prosecutor General is established by the President. The Prosecutor General receives an annual salary of RUB 1 405 560 (approximately EUR 20 435) and a monthly cash reward amounting to 1.51-fold the monthly remuneration (approximately, EUR 31 215 per annum). In 2015 the gross annual salary of a prosecutor at the beginning of this career was RUB 1 345 612 (approximately, EUR 19 560).

242. Prosecution staff benefit from measures of social support, including the right to pension; severance allowance; public transport costs for official duties; accommodation; health care; annual paid leave of 30 calendar days (or 45 days in regions with harsh weather conditions).

Case management and procedure

243. As regards criminal proceedings, executives of the prosecutor's offices assign cases to prosecutors in writing and, where required by a case, to a group of public prosecutors. During the site visit, the authorities explained that in small prosecutor's offices, there could be as few as three prosecutors and the allocation of cases was therefore dependent on the specialisation of each prosecutor. Nevertheless, the GET considers that overall there should be a clear set of principles for the attribution of cases to prosecutors which takes into account their workload and, where appropriate, their specialisation, and ensure that there can be no undue influence. For this reason, GRECO recommends that clear and objective criteria for the assignment of cases to prosecutors be introduced, with due regard being had to a fair and equitable workload between prosecutors, and that the case assignment be protected from undue influence.

244. At pre-trial stage, prosecutors can close a case being investigated in the form of an inquest or fast-track inquest, submitted with an indictment (Art. 226, part 1, item 3, and Art. 226.8, part 1, item 4, CPC), including as a result of (i) a settlement with the injured party, (ii) active repentance, or (iii) where the damage caused to the state budget by offences in the field of economic activities was reimbursed in full before a court hearing was fixed. Further, if public prosecutors arrive at the conclusion that evidence submitted does not confirm an indictment, they drop the charge and present to the court the grounds for doing so (Art. 246, part 7, CPC). This results in the criminal case or prosecution being fully or partly closed. In the course of pre-trial proceedings, the court can examine complaints against actions, omissions and decisions of prosecutors that may infringe on the constitutional rights and freedoms of the parties to criminal

proceedings or hinder their access to justice (Art.29, part 3, and 125 CPC). Moreover, any actions, omissions and decisions of prosecutors are subject to appeal by parties to criminal proceedings and other persons to the extent that their interests are affected by the procedural step (Art. 125, part 1, CPC).

245. Prosecutors can mitigate the charge before the court retires to pass the sentence (Art. 246, part 8, CPC). They can also institute proceedings in a criminal case on account of new circumstances not known to the court at the moment of its decision and excluding the criminality and punishability of an action, or newly discovered circumstances that existed at the moment of entry into force of the court decision but were not known to the court (Art. 415, CPC).

246. As to civil proceedings, the right to change the grounds, subject and amount of a claim or to drop it, is vested in the prosecutor who has filed the prosecution claim. A prosecutor taking part in a case concerning a claim made by another prosecutor, when circumstances call for immediate procedural action, informs the prosecutor who filed the claim. The latter either carries out the required procedural action or entrusts it, in writing, to the former. The right to lodge an appeal is vested in the prosecutor taking part in the case, and the right to lodge a cassation appeal rests on the Prosecutor General or his/her deputies, prosecutors of the constituent entities and prosecutors of a military district.

247. Participation in arbitration proceedings is ensured, as a rule, by the relevant structural subdivision of the prosecutor's offices of constituent entities based on the location of the arbitration court hearing the case. Participation of a prosecutor in the examination by a court of arbitration of cases initiated on the claims based on anti-corruption legislation is ensured by the staff of relevant structural subdivisions of the Prosecutor General's Office, the prosecutor's office of the constituent entity, or the military prosecutor's office having filed the claim.

248. As to the possible removal of a prosecutor from a case, such a decision is to be made, during the pre-trial proceedings, by the higher prosecutor and, during court proceedings, by the court deciding in the case (see paragraphs on recusal 261-262 about grounds to remove prosecutors). According to the authorities, a higher prosecutor can only in exceptional circumstances provided by law remove a lower prosecutor from a case. The authorities add that any resolution of a higher prosecutor has to be substantiated when in disagreement with a lower prosecutor. The instructions of a higher prosecutor are not to be made public but included in the case file.

249. Criminal proceedings are to be carried out within a reasonable time (Art. 6.1, CPC) and the time periods fixed by the CPC, which can in specified instances be extended. Circumstances connected with the functioning of the prosecutor's office cannot serve as grounds for exceeding a reasonable time. However, as already noted, in view of the numerous findings of violation of Article 6(1) ECHR by the European Court of Human Rights in respect of the Russian Federation, the GET invites the authorities to maintain their efforts to avoid lengthy proceedings.

Ethical principles, rules of conduct and conflicts of interest

250. General principles, including of moral and legal nature, prescribed for the status of a prosecutor are enshrined in the Law of the Prosecutor's Office which lays down the prosecutors' oath.⁴² In addition, the Law on Combatting Corruption (LCC) and the Law on the Civil Service, the General Principles of Official Conduct of Civil Servants and the Code of Ethics of Prosecution Staff Members apply to prosecutors.

251. The Code of Ethics of Prosecution Staff Members was developed by the Prosecutor General's Office and the Academy of the Prosecutor General's Office. In case of breach, prosecutors can receive an oral warning, warning about their improper conduct, and be requested to make a public apology. The breach of the code's standards through action discrediting the prosecution staff member will justify calling him/her to account in disciplinary proceedings.

252. Article 10 of the LCC, which defines conflicts of interest, applies to prosecutors. The Prosecutor General must report the emergence of a personal interest in performing official duties, which leads or may lead to a conflict of interest, as well as take measures for the prevention or settlement of any conflict of interest. The procedure for preventing and settling a conflict of interest applicable to prosecutors is that established by Article 11 of the LCC, which imposes an obligation to inform the employer about any conflict of interest and for the representative of the employer to take preventive measures or settle the conflict of interest that has come to his/her knowledge. Prevention or settlement of a conflict of interest may lie in the change of the official position or official capacity of the person concerned, restricting his/her duties and/or his/her giving up the benefits that became the cause of the conflict of interest. It is further achieved by the removal from office.

253. The authorities indicated that an executive of a prosecutor's office who knows about the emergence of a personal interest concerning a subordinate staff member, which results or may result in a conflict of interest, is also to be removed from office due to loss of confidence if no measures are taken for the prevention and/or settlement of a conflict of interest regarding his/her subordinate staff member, in the manner established by federal legislation governing matters of service in prosecution bodies (Art. 41.9, item 2, LPO).

254. Prosecutors are required to notify executives of the Prosecutor's Office where they are assigned of all occasions where they have been directly contacted in an attempt by someone to abuse their official position, give or take a bribe, abuse their powers or otherwise unlawfully use their official position with a view to gaining benefits such as cash, valuables, other property or property-related services, other property-related rights for themselves or third parties, or the unlawful provision of such benefit to the said parties by other individuals (Prosecutor General Order No. 142 of 06.05.2009).

⁴² "Pledging to serve the law, I solemnly vow: to observe scrupulously the Constitution of the Russian Federation, the laws and international obligations of the Russian Federation, refusing to tolerate the slightest deviation therefrom; to uncompromisingly combat any violations of the law, whoever committed them; to strive for a high level of effectiveness in prosecutorial supervision; to actively uphold the interests of the individual, society and the state; to be sensitive and attentive to any proposals, applications and complaints received from members of the public; to act with objectivity and fairness when deciding on people's future; to strictly keep any state and other secrets protected by law; to constantly improve my skills, cherish my professional honour, be a model of integrity, moral virtue and modesty and to scrupulously protect and propagate the finest traditions of the prosecution service. I am aware that any violation of this oath is incompatible with continued employment in the prosecution service".

Prohibition or restriction of certain activities

Incompatibilities and accessory activities, post-employment restrictions

255. Prosecutors are not allowed to be members of any elective or other bodies set up by state bodies and local self-government bodies or any public organisations pursuing political aims; to combine their primary occupation with any other paid or unpaid activity (apart from teaching, scientific and creative activities, if not prejudicial to their primary occupation); to be included in the structures of foreign NGOs and their branches in the Russian Federation, unless otherwise stipulated by an international agreement or federal legislation (Art. 4, items 3, 4 and 5, LPO).

256. Prosecutors are subject to restrictions, prohibitions and liabilities as laid down in the LCC and the Law on the Civil Service, and, *inter alia*, cannot directly carry on business activities personally or through agents; participate in the management of economic entities (except for, *inter alia*, labour union and municipal councils); and acquire securities that may generate income.

257. Furthermore, the following prosecution staff are prohibited from having and/or using foreign financial instruments: (i) the Prosecutor General, the first deputy and deputies of the Prosecutor General; (ii) prosecutors of constituent entities and equivalent prosecutors; (iii) prosecution staff holding positions in the federal public service and exercising functions involving the participation in the preparation of decisions concerning issues of state sovereignty and national security.

258. Prosecutors must hand over their securities and/or shares to trusts in order to prevent any conflict of interest (Art. 11, item 6, LPO). Prior to handing them over, they are to inform their immediate superior about holding such securities and/or shares.

259. As regards post-employment restrictions, prosecutors have the right, within two years from their dismissal, to work for or act as advisor to a company or organisation for a remuneration above RUB 100 000 (approximately EUR 1 470) per month subject to the agreement of the Certification Commission of the Prosecutor General's Office (see paragraph 279) in order to ensure that none of the former prosecutor's decisions benefited the organisation in question if their former duties included certain functions of supervision over the enforcement of federal laws by that organisation (Art. 12, part 1, LCC). The company must inform the Prosecutor General's Office about their decision to employ a former prosecutor, failing which it is liable to sanction of an amount ranging from RUB 100 000 to 500 000 (approximately, EUR 1 470 to 7 350).

Recusal

260. In a number of cases prosecutors may either seek self-disqualification or be removed in case of conflict of interest.

261. Prosecutors cannot take part in criminal proceedings, if they: (i) are victims, civil claimants, civil defendants or witnesses in a given criminal case; (ii) have participated as a juror, expert, or have been otherwise involved in the proceedings; (iii) are a close relative or a relation of any one of the participants in the proceedings. In addition, prosecutors may not participate in criminal proceedings where there are other circumstances that give reason to believe that they are personally, directly or indirectly, interested in the outcome of the criminal case. If a prosecutor has not opted out of participating in criminal proceedings, he/she may be challenged by the defendant, his/her legal representative, as well as another public prosecutor, victims, civil plaintiffs, civil defendants or their representatives. Similar rules apply in civil and arbitration proceedings (Art. 28, Code of Civil Procedure; Art. 23, Arbitration Procedure Code).

262. When the opinion of a prosecutor is materially inconsistent with the opinion expressed in the indictment, he/she should inform the prosecutor who has launched the public prosecution. In case of marked disagreement with the position of the prosecutor responsible for the indictment, he/she should replace the prosecutor or lead the prosecution him/herself (Prosecutor General Order No. 465 of 25.12.2002 on prosecutors' participation in judicial stages of criminal proceedings).

Gifts

263. Gifts to prosecutors in connection with their official capacity or their official duties are prohibited, except for those whose value does not exceed RUB 3 000 (approximately EUR 50) (Art. 575, item 1, sub-item 3, Civil Code). Gifts to prosecutors whose value exceeds this amount are considered state property and are to be handed over to the prosecutor's office where they hold their office. However, this does not extend to cases where the gift was given to prosecutors in their private capacity. Furthermore, the Code of Ethics of Prosecutors specifies that prosecutors must avoid personal or financial ties and conflicts of interest that would be prejudicial to their honour and dignity or reflect badly on the prosecution services. In extra-professional activities, prosecutors should not allow the use of their official position to influence the activities of any bodies, organisations, officials and citizens to resolve certain issues in which they are directly/indirectly interested. Violations of the relevant provisions of the Code will lead to sanctions (verbal reprimand; warning and public apology) which constitute grounds for starting disciplinary proceedings.

264. All gifts offered in connection with protocol events, business missions and other official activities must be reported, within three days, with the prosecutor's office where the prosecutor holds his/her office. Gifts above RUB 3 000 or whose value is not known are to be transferred for storage. For the purpose of entering the gift into the books, its value is based on the market value or the price for similar items in comparable conditions. Market value is either confirmed by the documents related to the gift or by an expert opinion. Gifts are to be returned if their value does not exceed RUB 3 000. Gifts, whose value exceeds RUB 3 000, must be registered in the register of federal property or the relevant register of the constituent entity. Prosecutors, who have handed over a gift worth more than RUB 3 000 to the office, may purchase the said gift by applying within two months.

265. The GET notes that there is potentially some uncertainty as to the clear distinction between gifts received by prosecutors in an official capacity, which need to be reported, and those received in a private capacity, which do not. There is a risk that gifts received in the margins of official events or business travels to influence a prosecutor would go undeclared.

266. According to the GET, rules on gifts and on declarations of revenues, expenses and property-related liabilities should make it an obligation for prosecutors to report all gifts from third parties, whether financial or in kind, regardless of whether they have been received in the strict exercise of their judicial functions (e.g. gifts received during official events) or could be seen as related in some way with their judicial functions (e.g. gifts made to attract a prosecutor's goodwill). GRECO recommends that practical guidance be drawn up on the requirement for prosecutors to report gifts, including in kind, received from third parties.

Third party contacts, confidential information

267. As regard third party contacts, the rules of conduct of prosecutors in extra-professional activities are established in the Code of Ethics of Prosecution Staff Members. Prosecutors undertake, in their professional and extra-professional activities, to avoid personal and financial links and conflicts of interest; to refrain from any actions capable

of being considered as supporting any persons for them to acquire rights, be exempted from obligations or liability; and to prevent interference with the activity of state and local self-government bodies, or commercial and non-commercial organisations. Prosecutors, in carrying out their official duties, must inform their immediate superior about claims, requests or proposals by anyone that aim at them departing from the law or the rules of official conduct.

268. Regarding confidential information, prosecutors may not disclose or use for purposes unrelated to civil service the data classified by federal law as information of confidential nature or privileged information, to which they have had access in connection with the exercise of their duties (Art. 17, part 1, Law on the Civil Service). This prohibition also applies after they have been discharged from the prosecution bodies (Art. 17, part 3, Law on the Civil Service). Prosecutors may be discharged in a case of disclosure of information considered as a state or other secret protected by law (Art. 43, part 1, item e, LPO).

Declaration of assets, income, liabilities and interests

269. All prosecutors must provide information on their revenues, property and property-related liabilities and that of their spouses and minor children. This information is provided in a declaration, which must include revenues (including income from the main professional occupation, teaching and research activities; bank deposits; securities and interests in companies); expenses; property; bank accounts and the amount of funds received for the reporting period in cases where this amount exceeds the total income of the person and his/her spouse for the reporting period and two preceding years; securities, including shares and other participation in companies and foundations; property-related liabilities and liabilities of a financial nature (loan, credit, etc.).

270. This information is provided by each prosecutor upon admission in the prosecution service to the human resources department of the competent prosecutor's office. The reporting period is the calendar year preceding the year of submission of the declaration of revenues. Information is provided annually by 30 April of a year following the reporting one.

271. Regulation on the Procedure to Inform by the Bodies and Institutions of the Prosecutor's Office on the Revenues, Expenses, Property and Property-Related Liabilities sets a list of persons whose information on their revenues, expenses, property and property-related liabilities (as well as of their spouse and minor children) is posted on the official websites of the prosecutor's offices.

Supervision and enforcement

272. The decision on whether to start criminal proceedings against prosecutors or on calling them to the bar as a defendant in criminal proceedings started against other persons, is taken by the branch of the Investigative Committee operating in the constituent entity concerned. Concerning higher prosecutors, the decision is taken by the Chair of the Investigative Committee or his/her deputy. For the Prosecutor General, the decision is taken by the Investigative Committee's Chair, on the basis of the conclusion of a group consisting of three judges of the Supreme Court, adopted on a proposal of the President, as to the presence of the constituent elements of a crime. A prosecutor detained on suspicion of committing a crime, with the exception of *in flagrante delicto*, is released immediately after being identified. The GET notes that, in accordance with Article 447 CPC, special criminal procedures apply to prosecutors, which explains the involvement of the Investigative Committee to initiate criminal proceedings against them as described above. However, they are amongst the high officials who benefit from immunity from criminal proceedings.

273. In 2015 18 prosecution staff members (i.e. prosecutors as well as other staff employed in the prosecutor's office) were brought to criminal responsibility, of which for the offence of corrupt nature – 11 persons; 16 criminal cases were instituted against prosecution staff members, including on offences of corrupt nature – 11 criminal cases. According to the official report of the Prosecutor General's Office, in 2015, in first instance judgments of conviction were rendered in relation to 18 prosecutors (in 2014, 16 prosecutors and, in 2013, 8 prosecutors).

274. When prosecutors do not observe restrictions and prohibitions, requirements on prevention or settlement of conflicts of interest and non-performance of liabilities laid down by federal laws for combating corruption, they are to be subjected to disciplinary penalties, including reproof, reprimand, severe reprimand, demotion in grade, warning on incomplete adequacy, and dismissal (Art. 41.8, LOP).

275. A prosecutor is to be dismissed in case of failure to take measures on the prevention and/or settlement of a conflict of interest; failure to provide information on revenues, property and property-related liabilities and that of spouses and minor children or provision of misleading or incomplete information; participation in activities of the administrative body of a company for a fee and carrying on business activities; inclusion in the structures of administrative bodies, guardianship or supervisory boards or other bodies of foreign NGOs, unless otherwise is stipulated by an international agreement or federal law; violation of the prohibition to open and keep accounts and to keep money and valuables in foreign banks located outside the Russian Federation and/or to use foreign financial instruments.

276. Special provisions apply to sanctions for corruption-related offences (Art. 41.10 LPO). Penalties are applied based on a recommendation of the competent commission on the observance of the requirements of official behaviour and settlement of conflicts of interest (certification commissions). When applying penalties, the nature and gravity of the offence, the circumstances under which it has been committed, the observance of other restrictions and prohibitions, requirements on prevention or settlement of a conflict of interest and performance of liabilities laid down for the purpose of combating corruption, as well as the record of performance by the prosecutor of his/her official duties are taken into account. A penalty in the form of a reproof or a reprimand may be applied when a corruption-related offence is considered minor.

277. Penalties are to be applied on the basis of an inspection report of the human resources unit of the relevant prosecutor's office on prevention of corruption and other offences and, where appropriate, the recommendation of the office's certification commission.

278. In 2015 disciplinary penalties were imposed on 3 409 prosecution staff members, i.e. prosecutors and other staff of the prosecutor's office. Out of these cases corruption related offences concerned 64 prosecution staff members.

Certification Commissions

279. The certification commissions, which have been set up in each prosecutor's office, contribute to ensuring compliance of prosecutors with the requirement to provide information on their revenues, property and property-related liabilities, as well as that of their spouses and minor children; the requirements on the prevention and settlement of conflicts of interest; the performance by them of obligations established by the LPO and LCC and other federal laws; and the implementation within each prosecutor's office of measures to prevent corruption.

280. Certification commissions consist of a chair (first deputy or deputy head of the prosecutor's office), a deputy chair (one of the prosecutors who are members of the

commission), a secretary (official of the prosecutor's office) and members (including a staff member from human resources and representative(s) of scientific organisations and educational institutions of higher and secondary vocational education, whose activities are related to the public service). The composition of the certification commission established in the Prosecutor General's Office also includes a representative of the Department of the President for combating corruption. There is also a possibility of including a representative of an organisation of veterans established within the prosecution bodies or institutions of the Russian Federation; and/or a trade union representative. A session of the certification commission is held in the presence of the prosecutor about whom an issue of compliance with the requirements of official conduct and/or the requirements for the settlement of a conflict of interest has been raised, or a former prosecutor. The explanations provided by the prosecutor are heard, and materials on the merits considered.

281. The certification commission will hold a session notably upon a submission by the head of the prosecutor's office concerning the observance of requirements pertaining to official conduct and/or requirements on settlement of conflicts of interests or implementation of measures on corruption prevention; applications of former prosecutors on obtaining consent to hold a position or work in a commercial or non-profit organisation and a notice from the organisation in question if his/her former duties included certain functions of supervision over the enforcement of federal laws by that organisation; statements of prosecutors on the impossibility, due to external factors, of providing information on revenues, property and property-related liabilities of their spouse and minor children; statements of prosecutors on the impossibility of observing the prohibition on opening and keeping accounts in foreign banks located outside the country, due to external factors. Certification commissions' decisions, which are advisory, are in principle taken by secret ballot and simple majority of members attending the session.

282. The Certification Commission of the Prosecutor General's Office held two sessions in 2014, and three in 2015. Within the prosecutor's offices of the constituent entities and equivalent specialised prosecutor's offices in 2014, 124 sessions were held and, in 2015, 278 sessions. Within the Central Office in 2015 there was one offence revealed which related to a conflict of interest, and within the regional offices in 2014, 58 offences of which eight offences related to a conflict of interest and, in 2015, 234 offences of which 52 related to a conflict of interest.⁴³

283. In addition, the Department of the President on Combating Corruption conducts a review, upon a decision of the Chief of Administration of the President or the Chair of the presidium of the Council of the President on Combating Corruption, of the authenticity and completeness of the information provided by candidates aspiring to become prosecutors, when their appointment and dismissal are carried out by the President or upon a recommendation of the President, and aspiring to or holding positions of first deputy and deputy Prosecutors General, their appointment being made by the President on recommendation of the Prosecutor General. Prosecutors who have been handed a disciplinary sanction may appeal first to a superior prosecutor and ultimately to a court.

284. The GET understands that disciplinary investigations into alleged breaches committed by a prosecutor are carried out by the human resources unit of the prosecutor's office where this prosecutor is in post. The certifications commissions, which

⁴³ Reviews on the observance of restrictions and prohibitions by other staff of the prosecution service, as well as requirements on preventing or settling conflicts of interest were undertaken. In relation to the staff of the central office, in 2015, one review on the prevention or settlement of a conflict of interest was held (in 2014 there was no reviews held). Similar reviews were held in relation to 66 staff members of the regional prosecution bodies, of which nine reviews in 2014 and 57 reviews in 2015. In 2015, 82 staff members, of which one staff member of the central office and 81 staff members of the regional bodies and, in 2014, 26 staff members of the regional bodies, were brought to a disciplinary proceedings based on the results of sessions of the commissions.

are attached to each prosecutor's office, assess potential breaches of the code of ethics and consider ad hoc situations of conflict of interest as well as propose sanctions. While certification commissions also include one or more representatives of the academic world, these commissions fit in the hierarchical structure of each office as they are chaired by the first deputy or deputy head of the prosecutor's office and are composed predominantly of prosecutors and prosecution staff of each prosecutor's office. In addition, their role is advisory and the decision on disciplinary sanctions rests with the Prosecutor General for prosecutors appointed by him and with prosecutors heading prosecutor's offices for those prosecutors they have appointed.

285. While acknowledging that internal disciplinary proceedings cannot be fully open to public scrutiny in all situations, the GET stresses that an autonomous mechanism distinct from the direct hierarchical line of command should be given the role of handling disciplinary matters against prosecutors. The GET would see clear benefits in the final outcome of disciplinary proceedings being given public transparency, as appropriate. Therefore, GRECO recommends that disciplinary proceedings against prosecutors carried out by the Prosecution Services be handled with a sufficient degree of autonomy and provide for more public accountability and transparency.

Training and awareness

286. According to the authorities, the main targets of the existing professional training are: professional, psychological qualities and skills of prosecutors necessary to solve concrete problems; improvement of working style and methods of executives of the prosecution bodies on management; training and education of subordinate staff; reduction of advance forms and methods of operation; career progression.

287. At present, the staff training system for the prosecution bodies comprises training of students in the Academy of the General Prosecutor's Office and its institutes, prosecution institutes within the higher educational institutions, and young recruits in the interregional vocational training centres. Programmes of professional development and professional further training by the Academy and its institutes, and regular seminars are held by the Prosecutor General's Office and the prosecutor's offices of the constituent entities.

288. At the Academy of Prosecutor General's Office, as part of the mandatory training, "professional ethics" is taught and, within the framework of the optional part of the professional training, the "legal framework for combating corruption" is proposed. The theme around the fight against corruption is also provided as part of courses of "intra-departmental training", i.e. in prosecutor's offices, inter-regional training centres, etc.

289. The Academy of Prosecutor General' Office and its branches provide additional in-service training for prosecution staff which must be followed at least once every five years. Every year, over 2 000 prosecution staff members undergo training and further training.

290. The GET notes that professional ethics are an integral part of initial training for prosecutors, but considers that it would be equally important to ensure that regular in-service training on the prevention of corruption, ethics and integrity be provided throughout the country. Such training could be delivered by the various prosecutors' offices, provided that it is based on a common curriculum. Therefore, GRECO recommends that regular in-service training on corruption prevention, ethics and integrity for prosecutors be further improved.

291. As regards advice, regulatory and administrative documents and other documents of the Prosecutor General's Office, including those relating to the prevention of corruption, are sent to all prosecution bodies for review and execution. In order to

explain the developments in anti-corruption legislation and provide guidance, the Prosecutor General's Office sends to the lower-level prosecutor's offices information letters and codes of practice. Furthermore, orders of the Prosecutor General are published in a monthly research and practice journal (Zakonnost).

292. Prosecutors who applied in writing and/or orally for advice on issues regarding conflicts of interest, prohibition or restriction of certain activities, receive appropriate explanations in writing and/or orally from the structural divisions of the Prosecutor General's Office, divisions of the prosecutor's offices of the constituent entities and equivalent prosecutor's offices within whose competence the subjects of interest for the staff member fall.

293. Information on revenues, expenses, property and property-related liabilities of the prosecutors and their family members, the outcome of work of the commissions on the observance of requirements to the official behaviour of the federal state servants and settlement of conflicts of interests, the guidelines are also posted on the websites of the prosecutor's offices.

VI. RECOMMENDATIONS AND FOLLOW-UP

294. In view of the findings of the present report, GRECO addresses the following recommendations to the Russian Federation:

Regarding members of parliament

- i. that the transparency of the legislative process be enhanced (i) by introducing an obligation to hold public consultations as a main rule for draft laws in the National Assembly; (ii) by ensuring that applications to obtain media accreditation in order to have access to the parliamentary process are examined within a reasonable time, depending on the circumstances, and that grounds for refusal are reviewed with a view to facilitating media access (paragraph 38);
- ii. that a code of ethics/conduct for members of parliament be adopted – covering various situations of conflicts of interest (gifts and other advantages, third party contacts, accessory activities, post-employment situations, etc.) -, made accessible to the public, and that it be complemented by practical measures for its implementation and enforcement (paragraph 48);
- iii. that practical guidance be drawn up on the requirement for MPs to report gifts, including in kind, received from third parties (paragraph 62);
- iv. that the declaration of revenues, interests, property and liabilities of members of parliament be published after their submission to the State Duma and Federation Council, without omitting information (such as sources of revenues) other than prejudicial to their privacy or that of their spouses and minor children (paragraph 78);
- v. strengthening the system of declaration of revenues, interests, property and liabilities with an effective control mechanism for both chambers of the National Assembly (including verifications of sources of revenues of MPs) (paragraph 97);
- vi. that the possibility of initiating investigations into the declaration of revenues, interests, property and liabilities of an MP, rests exclusively with the competent parliamentary committees, in order to preserve the independence of the legislative power, both real and perceived (paragraph 99);
- vii. ensuring that a range of adequate sanctions can be imposed on members of parliament on grounds of integrity breaches related to declarations of revenues, interests, property and liabilities, including filing incomplete or incorrect declarations, that are effective, proportionate and dissuasive (paragraph 101);
- viii. the provision of specific and periodic training for all members of parliaments, with a particular focus on new parliamentarians, on ethical questions and conflict of interest (paragraph 113);

Regarding judges

- ix. that the integrity requirement for selecting, appointing and promoting judges be guided by objective criteria available to the public (paragraph 146);
- x. that the process of recruiting judges be reviewed so as to better preserve the separation of powers and the independence of the judiciary vis-à-vis the executive by strengthening significantly the role of the judiciary in the selection process of candidate judges leading to their appointment by the President (paragraph 150);
- xi. that the federal authorities seek ways to strengthen the security of tenure of justices of the peace, involving the constituent entities (paragraph 155);
- xii. that the provisions connected with judges' impartiality and integrity (close relatives interested in the proceedings; action that could lead to conflict of interest; personal relationship with parties to the proceedings) which were removed from the Code of Judicial Ethics be reintegrated as safeguards for their impartiality and integrity (paragraph 184);
- xiii. that parties to proceedings whose motion for the recusal of the judge(s) deciding on their case and on this motion has been rejected be given the possibility of immediately appealing against such refusals without prejudice to the conduct of proceedings within reasonable time (paragraph 196);
- xiv. that practical guidance be drawn up on the requirement for judges to report all forms of gifts, including in kind, received from third parties (paragraph 199);
- xv. increasing transparency in respect of declarations on revenues, expenses, interests, property and liabilities by judges regarding sources of revenues, including from accessory activities, with due regard to their and their relatives' privacy and security (paragraph 208);
- xvi. that the immunity of judges be limited to activities related to their participation in the administration of justice ("functional immunity") to the extent possible (paragraph 214);
- xvii. that initial training and on-going training on corruption prevention issues, including on how to implement the Code of Judicial Ethics, be reinforced for all judges and that a system for training and counselling be made available to justices of the peace on matters relating to their expected conduct, prevention of conflicts of interest and the like (paragraph 229);

Regarding prosecutors

- xviii. that the procedure of appointment to higher posts of prosecutors be made more transparent vis-à-vis candidates with relevant professional experience who are not part of the prosecution services, by using objective and predetermined criteria and an open recruitment procedure (paragraph 239);

- xix. that clear and objective criteria for the assignment of cases to prosecutors be introduced, with due regard being had to a fair and equitable workload between prosecutors, and that the case assignment be protected from undue influence (paragraph 243);
- xx. that practical guidance be drawn up on the requirement for prosecutors to report gifts, including in kind, received from third parties (paragraph 266);
- xxi. that disciplinary proceedings against prosecutors carried out by the Prosecution Services be handled with a sufficient degree of autonomy and provide for more public accountability and transparency (paragraph 285);
- xxii. that regular in-service training on corruption prevention, ethics and integrity for prosecutors be further improved (paragraph 290).

295. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Russian Federation to submit a report on the measures taken to implement the above-mentioned recommendations by 30 April 2019. These measures will be assessed by GRECO through its specific compliance procedure.

296. GRECO invites the authorities of the Russian Federation to authorise, at their earliest convenience, the publication of this report, to translate the report into the national language and to make the translation publicly available.

About GRECO

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

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

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