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

EVALUATION REPORT

NORTH MACEDONIA



Adopted by GRECO
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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in North Macedonia to prevent corruption in respect of persons entrusted with top executive functions (ministers and state secretaries, as well as political advisors, as appropriate) and members of the police forces both in the Public Security Bureau as well as those under the responsibility of the Ministry of the Interior. Corruption is considered a serious problem in North Macedonia. The current report aims at strengthening the country's possibilities to fight corruption more effectively, in particular, in terms of transparency, integrity and accountability of public officials and institutions.

2. North Macedonia established rather broad policy and institutional frameworks for preventing and combatting corruption with its 2016-2019 State Programme for Repression of Corruption and Reduction of Conflicts of Interest. Currently, it has a legal framework in the field of anti-corruption, including the 2019 Law on Prevention of Corruption and Conflicts of Interest, the Law on Lobbying and the Law on the Protection of Whistle-blowers. However, several shortcomings still remain to be addressed. The overall strength of the anti-corruption framework is questionable as the implementation of different policies and laws is weak and selective in practice.

3. The State Commission for the Prevention of Corruption should play an important role in the national anti-corruption policy. However, since its establishment in 2002, it has often been criticised for lack of independence, weak mandate and low profile. Moreover, its activities were stalled in 2018, when five of its seven members, including the President of the Commission, resigned amidst accusations of misappropriation of funds. A new Commission was established on 8 February 2019 and is now in place as the main anti-corruption body of the country. Making this body effective and trusted by the public is an important challenge for the future.

4. The integrity and corruption prevention framework applicable to persons who are entrusted with top executive functions (PTEFs) and law enforcement agencies is rather complex and comprises *inter alia* the 2016-2019 State Programme for Repression of Corruption. However, gaps remain in several areas. In general, there is a need to improve the system of regular monitoring to assess the implementation of individual measures of the State Programme for Repression of Corruption and to extend integrity risk assessment beyond functionaries and staff, in order to cover such officials as personal advisers and external associates. A Code of Ethics was adopted in 2010, but there is a need to complement it with rules governing their relations with lobbyists and third parties and to provide on-going training for all relevant persons. As for the legislative procedure, greater transparency of internal decision-making processes should be ensured by publishing the names of all attendees of government sessions and working bodies. The acceptance of gifts is prohibited with certain exceptions. These are regulated by different legal provisions and streamlining the rules on the acceptance of gifts is necessary. Declarations of interest and assets of persons entrusted with top executive functions are made public. However, oversight needs to be strengthened and more transparent.

5. As for the law enforcement authorities, one of the main concerns is the perceived politicisation of the police and the need to strengthen its operational independence. It would appear that the internal control mechanisms, subordinated directly to the Minister of the Interior, as well as the external oversight performed by the Assembly, the Ombudsman and the Public Prosecutor need to be more efficient in order to improve the public accountability of the police. There is also a need to provide for more transparency around the police and its activities, allowing public access to various types of general information (statistics, budgets, reports on police activities and decision making). A new code of ethics for the police should be elaborated in cooperation with relevant stakeholders which should cover matters related to integrity, conflicts of interest, gifts and corruption prevention within the police. Moreover, there is a need to ensure an objective, effective and competitive recruitment procedure into the police service, including for managerial positions. The Law on the Protection of Whistle-blowers as amended in 2018 needs to be accompanied by dedicated measures for its implementation in reality.

II. INTRODUCTION AND METHODOLOGY

6. North Macedonia joined GRECO in 2000 and has been evaluated in the framework of GRECO's First (in March 2002), Second (in December 2004), Third (in September 2009) and Fourth (in May 2013) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.¹

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

8. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to North Macedonia from 1-5 October 2018, and reference was made to the responses by North Macedonia to the Evaluation Questionnaire, as well as other information received, including from civil society. The GET was composed of Ms Marina MICUNOVIC, Head of Section, Department of International Relations and Standards, Agency for Prevention of Corruption (Montenegro), Mr Elnur MUSAYEV, Senior Prosecutor, Anticorruption Directorate, Prosecutor's Office (Azerbaijan), Ms Mari-Liis SÖÖT, Head of Analysis Division, Criminal Policy Department, Ministry of Justice (Estonia) and Ms Verena WESSELY, Head of the division for International Cooperation in the Department for Prevention, Education and International Cooperation, Bureau of Anti-Corruption, Ministry of the Interior (Austria). The GET was supported by Ms Liubov SAMOKHINA and Ms Helena KLIMA-LIŠUCHOVÁ from GRECO's Secretariat.

9. The GET interviewed representatives of the Cabinets of the President, the Prime Minister and selected ministers, the Secretary General of the Government and staff of its General Secretariat, representatives of the Ministry of the Interior and its structures, i.e. the Public Security Bureau, the Directorate for Security and Counter-intelligence and the Training Centre, and commissions as well as police officers, including high ranking police officials. Meetings were also held with the State Commission for Prevention of Corruption, the State Revenue Office, the State Audit Office, the Ombudsman Office, the Ministry of Justice, the Ministry of Finance, the Ministry of Information Society and Administration and of the Special public prosecutor's office prosecuting crimes related to and arising from the content of the illegally intercepted communication. Furthermore, discussions were held with representatives of the police trade union, non-governmental organisations (ANALYTHICA (Pointplus), Foundation Open Society Macedonia, International Republican Institute, Macedonian Centre for International Cooperation, Institute for Democracy "Societas Civilis", Transparency International Macedonia and Centre for Civil Communications), academic community and investigative journalists.

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

III. CONTEXT

10. North Macedonia has been part of GRECO since 2000 and undergone four evaluation rounds on different topics related to the prevention and fight against corruption². It achieved its best results in terms of implementing GRECO recommendations in the Second Round (93% of recommendations fully implemented, 7% partly implemented) and the First Round (88% of recommendations fully implemented, 6% partly implemented and 6% not implemented). The findings of the Third Round were somewhat less encouraging, with 77% of recommendations fully implemented and 23% partly implemented. As for the Fourth Round, a non-compliance procedure was launched in June 2018 in response to poor performance: to date only 31% of recommendations have been fully implemented, 42% partly implemented and 26% remain not implemented.

11. In Transparency International's Corruption Perceptions Index the country's score increased steadily between 2006 and 2014, but then dropped in 2015-2017. The score in 2018 has improved:

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Score	27	33	36	38	41	39	43	44	45	42	37	35	44
Rate	105	84	72	71	62	69	69	67	64	66	90	107	93

That downward trend can be attributed to a major political crisis in February 2015 after the leader of the opposition released wiretap evidence of widespread corruption and abuse of power in the government³. The protests that followed led to increased political tension and polarisation. Following a short period of violent conflict in May 2015, a technical government composed of the main political parties was established and a special public prosecutor was appointed to investigate the alleged wrongdoings (some 60,000 cases in total).

12. Corruption is considered a serious problem by general public but some perceptions can appear contradictory. According to 2017 public opinion polls⁴, there was a worrying absence of confidence in the State Commission for Corruption Prevention (28%) - the country's leading anti-corruption agency, the judiciary (31%), the parliament and the government (both 36%). The police were the second most trusted institution just behind the education system. At the same time, the prevalence of bribery was perceived as high in the police and, in some surveys, the police also figured among the most corrupt institutions⁵. The police were also widely viewed as serving to protect specific groups, such as political parties (36%) or government (22%), rather than the general public (27%)⁶. Almost half the population (44%) believed that police officers are employed through political connections, while only 13 % took the view that recruitment is through public competition. Some three quarters of the population also believe that the Ombudsman and the Supreme Audit Office are not free from undue political interference. Approximately half of the bribes paid to public officials were said to be made in non-monetary form⁷.

13. *On paper*, the country has established rather broad policy, legal and institutional frameworks for preventing and combatting corruption. The 2016-2019 State Programme for Repression of

² Evaluation round I: Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption/ Extent and scope of immunities; Evaluation round II: Identification, seizure and confiscation of corruption proceeds/ Public administration and corruption/ Prevention of legal persons being used as shields for corruption/ Tax and financial legislation to counter corruption/ Links between corruption, organised crime and money laundering; Evaluation round III: criminalisation of corruption/ Transparency of party funding; Evaluation round IV: Prevention of corruption in respect of members of parliament, judges and prosecutors.

³ <http://www.balkaninsight.com/en/article/whistleblower-sheds-light-on-macedonia-wiretapping-scandal-09-01-2017>

⁴ <http://pointpulse.net/wp-content/uploads/2016/09/POINTPULSE-2016-MKD-ENG.pdf>

⁵ Ibid as well as <https://www.business-anti-corruption.com/country-profiles/macedonia/>

⁶ <http://pointpulse.net/wp-content/uploads/2016/09/POINTPULSE-2016-MKD-ENG.pdf>

⁷ http://www.unodc.org/documents/data-and-analysis/statistics/corruption/Macedonia_Business_corruption_report_ENG.pdf

Corruption and Reduction of Conflicts of Interest encompasses preventive and repressive elements and covers the public and the private sectors⁸. The legal framework is composed of the Law on Prevention of Corruption and Conflicts of Interest, the Law on Lobbying and the Law on the Protection of Whistle-blowers as well as a substantial number of regulations. Yet, the implementation of those policies and laws has been weak and selective and frequent legislative changes have created an overall unpredictable environment and allowed for corrupt public officials to act with impunity⁹.

14. The State Commission for Corruption Prevention (SCPC), established in 2002 as a permanent autonomous body for implementing the anti-corruption framework, has often been criticised for a lack of independence, weak mandate and low profile rather than acting as a driving force in the fight against corruption¹⁰. In March 2018, five of its seven members, including the President, resigned amidst accusations of misappropriation of funds: they had claimed unrealistically high travel costs for journeys during periods when they were also registered as regularly attending office. Since, the SCPC's activities have been stalled¹¹ and the public prosecutor's office has opened an investigation. Most local sources report that the SCPC has lost citizens' trust and failed to fulfil its monitoring and control responsibilities¹². The new State Commission was established in February 2019 based on the new Law on Prevention of Corruption and Conflicts of Interests (LPCCOI), adopted in 2019.

15. The criminal justice system has also not been successful in combatting corruption. Although the special prosecutor's office has taken several high level corruption cases arising out of the wiretapping scandal to court, prosecutors in general have not systematically prosecuted high-profile or politically sensitive cases. Progress in this area is believed to strongly depend on whether the country's judiciary can move towards independent and impartial functioning¹³. Since the on-site visit, the GET has been made aware of certain positive developments concerning criminalising high-level corruption.

16. The capacity of the public sector to effectively prevent corruption has shown structural and operational deficiencies as well. Political interference in the work of and appointments to the public administration appears widespread and often charged with ethnic considerations¹⁴. Nepotism and conflicts of interest are not properly addressed¹⁵, and the media environment is considered "not free"¹⁶.

⁸ It pursues five strategic objectives: 1) strengthened institutional system and legislation for preventing corruption and conflicts of interest; 2) strengthened repression of corruption; 3) strengthened capacities and independence of law enforcement bodies; 4) more active public participation in the fight against corruption and conflicts of interest; and 5) efficient co-ordination of anti-corruption activities, monitoring and evaluation of the implementation.

⁹ <https://www.business-anti-corruption.com/country-profiles/macedonia/>

¹⁰ <https://freedomhouse.org/report/nations-transit/2018/macedonia>

¹¹ Due to lack of deadlines set in the former law to initiate appointment procedure for new members

¹² The full report is available in Macedonian at the following link:

http://seldi.net/fileadmin/public/PDF/Publications/CAR_Macedonia/Macedonian_CAR_2016_Macedonian.pdf. The same perception on the SCPC is also confirmed by the 2016 TI Integrity System Report:

http://www.transparency.mk/en/images/stories/NIS_eng.pdf

¹³ <https://freedomhouse.org/report/nations-transit/2018/macedonia>

¹⁴ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d23e3>

¹⁵ https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Macedonia.pdf

¹⁶ <https://www.business-anti-corruption.com/country-profiles/macedonia/>

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

System of government and top executive functions

The President

17. North Macedonia is a republic with a multi-party parliamentary system of governance where the legislative, executive and judicial powers are separated. The Head of State, the President,¹⁷ represents the Republic and is elected directly, by secret ballot, in national elections for a five-year term, renewable once. His/her duties are incompatible with any other public office, profession or political party appointment.

18. Following elections to Parliament, the President nominates a “mandator”¹⁸ who forms the government. The President proposes two Constitutional Court judges, two members of the Judicial Council and members of the Assembly’s Council for Inter-Ethnic Relations, appoints diplomatic representatives, other holders of state and public office determined by the Constitution and the law and grants decorations, honours and pardons.

19. The President addresses the Assembly on the issues within his/her competence at least once a year, and the Assembly may request his/her opinion on such issues. Adopted laws are promulgated jointly by the President and the President of the Assembly. If the President declines to promulgate a law, it is returned to the Assembly and if its revised text is then adopted by a majority of votes of all the MPs, the President has to promulgate it. The President is obliged to promulgate laws adopted by a two-third majority vote of all MPs.

20. The President is the Commander-in-Chief of the Armed Forces and presides over the Security Council, which is to make policy proposals to the Assembly and the Government. The Council is composed of the President, the President of the Assembly, the Prime Minister, the ministers of security, defence and foreign affairs, and three members representing minority communities appointed by the President.

21. The President enjoys immunity but is liable for violation of the Constitution while exercising his/her rights and duties. A procedure for determining his/her liability is to be initiated by the Assembly, by a two-third majority vote of all its members, and the Constitutional Court is then to decide by a two-third majority vote of all its judges whether to withdraw his/her immunity or approve his/her detention. If the Court deems that the President has violated the Constitution, his/her mandate is to be terminated. So far the aforementioned procedure has not been applied.

22. The Cabinet of the President is to perform analytical, research, information, documentation, normative, legal, protocol, expert, technical, administrative, financial, material and other tasks. It is funded from the state budget and is managed by the Secretary General¹⁹ who is to recruit its staff.

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

¹⁷ For the description of presidential duties, see: <http://pretsedatel.mk/en/president/rights-and-duties.html>

¹⁸ A member of the party/ies with the majority of seats in the Assembly who receives a mandate to form the Government

¹⁹ The Secretary General of the Cabinet and his/her Deputies are appointed by the President.

24. GRECO notes that, according to the country's legal doctrine, North Macedonia is a parliamentary republic with elements of a presidential system. Parliamentary features predominate: the government is formed by the parliamentary majority and accountable to the Assembly; the Assembly cannot be dissolved by the executive; parliamentary and ministerial mandates cannot be held simultaneously (incompatibility); the legislative and executive branches co-operate. The elements of the presidential system include: direct election of the head of state; his/her right to veto draft legislation in certain cases, liability of the head of state for violation of the Constitution (impeachment). The functions of the head of state and of the head of government are separated and exercised, respectively, by the President and the Prime Minister.

25. The President has little executive power, except in certain areas of foreign and defence affairs. S/he determines strategic priorities in co-operation with the Minister of Foreign Affairs and adopts certain policy documents in consultation with the Minister of Defence. The Security Council is rarely convened. The President may unilaterally appoint only the Director of the Intelligence Agency and the Chief of Staff of the Army, although, in practice, the latter is appointed in consultation with the Minister of Defence, being accountable to both the minister and the President. Diplomatic appointments are not made at the discretion of the President²⁰, and similar limits are respected with regard to other appointments made by him/her.²¹

26. The President promulgates laws but otherwise does not take part in the legislative or government processes. The right to veto draft legislation is exercised only once or twice in each presidential term. Although, pursuant to the Law on Pardon, the President may exceptionally stop ongoing criminal proceedings and grant a pardon, also after criminal proceedings and in respect of convicted persons. This right is reportedly used sparingly; the only exception being a blanket pardon granted in 2016 to 56 government and opposition figures, including a former Prime Minister, implicated in the 2015 wire-tapping scandal. Following massive protests within the Country as well as from the international community, this controversial decision was subsequently revoked by the President.

27. The President is not involved in the enforcement of laws and not competent to define budgets, not even that of his/her own Cabinet for which the budgetary proposal is reviewed by the Ministry of Finance and the Government, and adopted by the Assembly (the budget is then published on the President's website together with the balance of accounts). At the time of the visit, the Cabinet was composed of 59 persons, including three "functionaries" (see further below), 51 civil servants and five "special advisors" recruited on the basis of an open selection procedure established by law (see further below); the latter's names are published online. The President – as an elected person - submits asset declarations under the new Law on Prevention of Corruption and Conflict of Interest.

28. The GET notes that the President, in addition to his/her representative functions, has some executive powers, according to the Constitution, e.g. in defence and security matters. It would appear that in so far as these areas are concerned, the President is entrusted with top executive functions, while s/he does not exercise such powers in respect of most other government functions. However, as these functions are limited, the President is not to be considered a "*person entrusted with top executive functions*" (PTEFs) in the meaning of the current evaluation round. That said, in so far as s/he carries out such top executive functions the authorities are invited to take into consideration the comments and recommendations in this report to the extent that they might also affect the duties of the President, and his/her Cabinet, as appropriate.

²⁰ A list of candidates is compiled by the Government and sent to the President for negotiation. Those who are kept on the list undergo training in the Ministry of Foreign Affairs and defend a thesis before the Assembly's Foreign Affairs Committee. Successful candidates are then submitted to the President for appointment and s/he does not have the right to reject them.

²¹ A presidential proposal can be rejected by the Assembly or the Government. For example, in May 2018, a candidate for the post of Governor of the Central Bank, proposed by the President, was rejected by the Assembly. This candidate was withdrawn and replaced by another one.

The Government

29. The Government is the holder of the executive power. It is elected by the Assembly (majority of members) on the basis of the mandator's proposal. The competences and responsibilities of the Government and its individual members are determined by the Law on the Government (LOG) and the way it functions is regulated by the Rules of Procedure (RoP).

30. The current Government is composed of the Prime Minister, three deputy prime ministers, 15 ministers²² and seven ministers without portfolio (26 persons in total, of which 4 are currently women and 22 men). In this connection, the GET draws attention to Recommendation Rec(2003)3 of the Committee of Ministers of the Council of Europe to member states on balanced participation of women and men in political and public decision-making, which states that balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

31. The Government is accountable politically, collectively and each member individually (votes of confidence and no confidence, parliamentary questions), to the Assembly. If the Prime Minister resigns, the whole Cabinet is deemed to have resigned. If the Prime Minister dismisses more than one third of its initial composition, a new government is to be formed under the same procedure that applies when a government is elected.

32. Decision-making is collegial and requires a majority vote of all members, except for urgent cases and those pertaining to defence and security where a majority vote of the members present suffices. Voting is public, unless a secret vote on a particular issue is provided for by the RoP²³. The legality of decisions can be appealed to an administrative court, and their constitutionality – to the Constitutional Court.

33. The Prime Minister directs and manages the activities of the government and its members, signs and ensures the implementation of regulations and acts, cooperates with other bodies, public enterprises, institutions, companies, associations of citizens and legal entities, and establishes an Office to assist him/her. The running costs of government members' offices are covered from the state budget.

34. Government members (Prime Minister and ministers), deputy ministers (appointed by the Assembly on the proposal of the Prime Minister), the Secretary General of the Government (appointed by the Government to manage its General Secretariat) and the State Secretary of the Legislative Secretariat are "functionaries"²⁴ (also referred to as "elected or appointed officials"); they are not public sector employees. Other State Secretaries are appointed by ministers from the management of the ministry concerned; they have the status of "administrative servants"²⁵ (a category of public sector

²² The Constitution explicitly stipulates that bodies of state administration in the fields of defence and policing are to be headed by persons who have been civilians for at least three years prior to their election to those offices.

²³ Article 20(3) LOG. Secret voting is held only when classified information is at stake – see Article 85-a RoP.

²⁴ that is "persons who have a mandate resulting from presidential, parliamentary or local elections, persons who have been given a mandate to hold office in the executive and judicial branches by way of election or appointment by the Assembly...as well as other persons who, in accordance with the law, are elected or appointed to office by the holders of legislative, executive or judicial authority" – Article 2(3) LPSE.

²⁵ Administrative servants are sub-divided into 1) civil servants employed in state and local government authorities established under the Constitution and laws; and 2) public servants, employed in institutions performing activities in the field of education, science, health, culture, labour, social and child protection, sports, as well as other activities with a public interest laid down in law, and organised as agencies, funds, public institutions and public enterprises – Article 3 of the Law on Administrative Servants.

employee²⁶), and the status of “civil servant”. The “functionaries” are persons performing top executive functions (PTEFs) in the current report.

35. Certain jobs in central government are reserved for “cabinet servants” who are selected by means of a mobility procedure from the ranks of “administrative servants” and who may represent either a category of “civil servants” or a category of “public servants”, in respect of whom different legal regimes apply. The number of posts cannot be higher than:

- ten cabinet servants in the Prime Minister’s Office;
- three cabinet servants in the offices of each of the Deputy Prime Ministers;
- three cabinet servants in the offices of ministries with over 100 employees;
- two cabinet servants in the offices of ministries with less than 100 employees;
- three cabinet servants in the offices of the Secretary General of the Government; and
- one cabinet servant in the office of ministers without portfolio.

Advisers to the Government

36. Pursuant to Article 22 of the Law on Public Sector Employees (LPSE), “special advisers” can be hired under employment contracts²⁷ to perform “special jobs” in the offices of the prime minister, ministers and the secretary general of the government for the duration of their mandate. Vacancies are announced publicly and such positions must be determined in the acts on internal organisation and systematisation of jobs of the institution concerned. The number of positions cannot exceed²⁸:

- one special adviser for each government portfolio in the Prime Minister’s office (there are 25 sectors and 13 special advisers at the moment);
- three special advisers in the offices of each of the Deputy Prime Ministers;
- three special advisers in the offices of ministers in ministries with over 100 employees;
- two special advisers in the offices of ministers in ministries with less than 100 employees;
- three special advisers in the office of the Secretary General of the Government; and
- one special adviser in the offices of ministers without portfolio.

At present, 50 “special advisers” are employed in the above offices.

37. Other categories of advisors can be hired as well by the Prime Minister’s Office, based on Articles 6 and 6-a of the Prime Minister’s Decision on establishing his/her Office. Specifically, “at his/her own discretion”, the Prime Minister may engage: 1) “external associates”: professors, scientists, distinguished businessmen and experts, including from abroad, with special knowledge and experience in long-term strategic planning in economics, politics, human resources and sustainable development²⁹, and 2) “personal advisers”: experts in various sectors. The recruitment requirements and remuneration of “external associates” are determined by the Prime Minister and the specific duties are set out in individual contracts. The remuneration of personal advisers is fixed with due regard being had to the Prime Minister’s Decision on Determining the Coefficients for Calculating the Salary of High Officials appointed by the Government. The Law on Public Sector employees does not apply to them and currently there is no legal regulation in place regulating their powers.

²⁶ Public sector employees are divided into four groups, which are themselves sub-divided into sub-groups: 1) administrative servants (in all public sector institutions); 2) authorised officers in the field of security, defence and intelligence (e.g. the police and prison staff); 3) public service providers in public institutions, public enterprises and municipalities and 4) auxiliary and technical persons (in all public sector institutions) – Article 14 LPSE.

²⁷ The rights and obligations arising out of such contracts are regulated by the Law on Labour Relations.

²⁸ These limits can be exceeded with the approval of the Ministry of Finance.

²⁹ Their recruitment is governed by the Rulebook on Engaging Scientific and Expert Associates.

38. The performance of all of the aforementioned advisers/associates is controlled by the functionaries who engage them. None of them is to give orders to administrative servants³⁰.

39. At the time of the visit, the Prime Minister's Office was composed of persons with different legal status: i) three "functionaries"; ii) 31 "administrative servants" and 13 "special advisers", the latter two categories are "public sector employee"; as well as iii) other advisers, i.e. 10 "personal advisers" and 31 "external associates". The election/appointment/recruitment of the first two groups are governed by law and follow dedicated procedures, for the third group the basis is a decision taken by the Prime Minister at his/her discretion. There is no limit on how many of these other advisors can be hired³¹ and no prohibition on hiring relatives on these posts or obligation to pursue such functions full time³². Information on advisers and associates (their duties, curriculum vitae, salary, etc.) is not proactively published and acquiring it on request is allegedly difficult and time-consuming.³³ The GET acknowledges the legitimate aim of government seeking advice from different sectors of society. Though not in a position to ascertain whether similar rules and practices exist in all ministries, the GET nevertheless takes the view that for reasons of accountability of central government, some level of transparency concerning the persons who serve as advisors to functionaries is needed. Therefore, **GRECO recommends (i) that in respect of employment of persons hired at the discretion of central government functionaries to give advice to functionaries or to perform similar functions rules on incompatibilities and vetting based on integrity criteria be introduced; and (ii) that the names and contractual benefits (salaries etc.) of those hired for these positions are made easily accessible online and, when part-time recruitment/ad hoc engagement is the case, that information on their main job/activities is included.**

Status and remuneration of persons with top executive functions

40. Remuneration is regulated by the Law on Salaries and Other Benefits of Appointed and Elected Persons as well as the Law on Budget Execution in the current year. The gross annual salary of the Prime Minister is 1,445,850.00 MKD/23,508€, of a minister 1,188,810.00 MKD/19,329€, of a deputy minister 1,059,504.00 MKD/17,232€ and of a state secretary 963,072.00 MKD/15,658€. In 2016 the average gross monthly salary was 32,822 MKD/533€.

41. Entitlement to allowances (compensation for "separate living", removal expenses, rent of an apartment³⁴, business trips) and benefits (catering, official mobile phone, official credit card³⁵) is also provided for. The amounts and conditions of receipt/use are determined by laws, government decisions and decrees³⁶. On retirement, the Prime Minister benefits from the right to personal protection and is provided with an official vehicle with a driver³⁷.

42. Controls of the use of allowances are performed pursuant to the Law on Public Internal Financial Control, the standards for internal control in the public sector and internal policies and procedures of the entity that grants the allowance. Audits are conducted by the internal control unit of the institution concerned, the Ministry of Finance and the State Audit Office. By way of example,

³⁰ Pursuant to Guidelines for good governance of elected and appointed officials in the executive branch, "cabinet officers and special advisers shall not as a rule, impose duties on administrative servants, except when they receive authorisation to do so from the Prime Minister and Ministers".

³¹ The GET understood that, in the Prime Minister's Office, there is no limit on the engagement of "external associates", while within ministries a 1% quota of all employees' applies, pursuant to the Law on Contract.

³² The GET was told that personal advisers are employed full time and provided with their own office, whereas external associates are employed part-time or on an *ad hoc* basis and are not given an office.

³³ There is, however, a list with basic information (name, work done and email) of different advisers to the Prime minister. Other ministries and governmental institutions do not publish even the basic information

³⁴ Up to €400 for a minister, €300 for a deputy minister and € 250 for all other officials

³⁵ The use of these cards is controlled by the State Audit Office and internal audit departments within the ministries.

³⁶ Regulated by the Decree on expenses for business trips at home and abroad which are recognised as regular expenses of state administration bodies

³⁷ Article 14-a LOG

the GET was told about functionalities being discharged for illegally purchasing business class tickets. The authorities also pride themselves on the software designed to present online the expenses of government functionaries down to state secretary level, disaggregated by person and expense item.

Anti-corruption and integrity policy, regulatory and institutional framework

Policy framework and corruption risk assessment

43. The 2016-2019 State Programme for Repression of Corruption and Reduction of Conflicts of Interest (cf. context chapter) provides the overall policy framework. Together with the corresponding Action Plan, the Programme is based on and continues on from the previous anti-corruption strategies adopted since 2003. Twenty-six institutions are to implement a total of 74 activities under the Programme covering 18 policy areas. The execution of the Programme as a whole and of individual activities is monitored by the State Commission for Prevention of Corruption (SCPC) using a web application for the systematic processing of information submitted by the institutions involved.

44. Pursuant to the Law on Public Internal Financial Control and to the 2015 Risk Management Strategy adopted by the Ministry of Finance, all organisational units in the public sector, including in central government, are to use Risk Registers and Action Plans to analyse risks and to develop and implement mitigating measures. A standard form is used to determine and assess risks covering operational, strategic, organisational and financial aspects. There are Guidelines for completing the register and since 2016, instructions on how to measure corruption and conflicts of interest risks³⁸.

45. The GET notes that the 2016-2019 State Programme for Repression of Corruption and Conflicts of Interest prioritises the implementation and the ascertainment of impact and effects of anti-corruption measures (such as the declaration of interests and assets) as well as the carrying out of integrity risk assessment. Regarding implementation, impact and effects, on-site interviews did not show clearly successes or failings of the anti-corruption programmes, including the current one. Documents provided after the visit do not indicate that a systematic quality analysis has been made and there is no analysis of the activities' impact on the attainment of strategic objectives or to examine potential shortcomings in policy areas³⁹. The assessment of the implementation of the State Programme is carried out by the SCPC. It provides an overview of the implementation of anti-corruption measures in the State Programme for Repression of Corruption and Conflicts of Interest, but it lacks sufficient details on its impact.

46. As for on-going integrity-related activities (i.e. the development of an integrity concept and policies and the drafting of guidelines for corruption and conflicts of interest risk assessment), these have so far only been directed by the SCPC at the municipal government level, not the central government level. The integrity risk assessment at this level is not conducted in practice. Furthermore, in order to be effective such assessment needs to be fully embedded in operational management practices and culture across the public sector and regularly evaluated as to its impact. The authorities concede to a number of flaws such as the meagre capacity of internal control units, including a lack of certified auditors, no harmonisation of control systems and risk assessments, low awareness of corruption risks except for bribery, and poor computerisation. The GET found it particularly striking that, due to a lack of resources, statements of interests and asset declarations filed by civil servants with internal control/human resources units, including in central government, were merely stored and not subject to checks. The resources of the Ministry of Finance and of the SCPC, the two bodies responsible for offering methodological guidance on integrity risk assessments, were considered in

³⁸ See <https://www.finance.gov.mk/mk/node/679>

³⁹ For example, after the visit, the GET received an extract from the Report on the Programme's implementation in 2016. It affirms that, of the 74 activities planned, 10 (14%) had been fully implemented (none in the area of "integrity and ethics in the institutions at all levels"), 26 (35%) were on-going and 38 (51%) had not been implemented. Although all institutions involved submitted information and their co-operation with the SCPC was assessed as successful, the Report acknowledged that for many activities no report was given on the status of their implementation.

need of serious reinforcement. In view of the problems identified, **GRECO recommends (i) to systematically carry out integrity risk assessment in central government covering all functionaries and personal advisers and external associates, as appropriate; (ii) to put in place appropriate remedial measures and to provide adequate resources to internal control units and bodies responsible for offering methodological advice in this area; and (iii) to regularly evaluate the impact and effects of integrity measures in central government (e.g. declaration of interests and assets) and to make the results public.**

Legal framework

47. The relevant legal framework on integrity are contained in various parts of the Constitution and legal acts such as the Criminal Code, the Law on Free Access to Public Information, Law on Lobbying and the Law on the Protection of Whistle-blowers, Law on Protection of Personal Data etc.

48. During the visit, the GET was informed of the imminent merger of the Law on Prevention of Corruption (LPC) and the Law on Prevention of Conflicts of Interest (LPCOI) into a single text. On 19 January 2019 these two laws were replaced by the Law on Prevention of Corruption and Conflicts of Interest (LPCCOI) which now forms the main anti-corruption Law. In addition, the anti-corruption legislation is composed of the Law on Lobbying and the Law on the Protection of Whistle-blowers. While the complexity and repetitiveness of the previous individual laws in place undoubtedly justified streamlining and simplification, neither the new law nor other regulations appear to tackle some obvious gaps in the present framework which demand proper action.

49. One imperative is the prevention and management of conflicts of interest in respect of all central government staff. The LPCCOI imposes obligations on various types of persons such as functionaries, civil servants (who are a category of administrative servants), their family members⁴⁰, special advisers⁴¹ and “personal advisers”. However, duties/obligations of “external associates” are not defined. The GET therefore advises the authorities to extend applicable norms on ethical conduct to these categories of persons as well.

50. On a more general note, the authorities are encouraged to reduce the number of *categories* of persons employed in central government due to the confusion caused by a multitude of parallel legal frameworks which can make it difficult to identify which rules are applicable in individual cases, which, in turn, can undermine the potential for effectively preventing conflicts of interest and corruption.

Institutional framework

51. The State Commission for Prevention of Corruption (SCPC), established in November 2002 by LPC, is an autonomous and independent body (according to the law) responsible for preventing corruption and conflicts of interest. It is composed of six members and a President appointed by the Assembly for a five-year term, not renewable. The President and members of the SCPC are accountable to Parliament.

52. The SCPC’s competences are now defined in the new law, LPCCOI, the Law on Lobbying and the Law on the Protection of Whistle-blowers. These include *inter alia*: a) the adoption of a national strategy for the prevention of corruption and conflicts of interest and , and related action plans; b) acting on cases of conflicts of interest as determined by law; c) registering and monitoring the assets – including any changes – of functionaries; d) keeping a register of elected and appointed persons; e) preparing a catalogue of gifts under Art. 58s; f) acting upon reports about suspicions of corruption and conflict of interest.

⁴⁰ Article 8(3) LPCCOI

⁴¹ Article 82 LPCCOI

53. The SCPC's activities are communicated to the public via annual reports (submitted to the Assembly, the President and the Government), press conferences, press releases and the website. The published manuals on conflicts of interest, integrity, risk assessment and whistle-blowers are available at: www.dksk.mk/index.php?id=57. The SCPC is also to notify the public of cases of conflicts of interest.⁴²

54. The SCPC is supported by a secretariat headed by a secretary general who is appointed by the SCPC. The secretary general and secretariat are civil servants subject to the LPCCOI rules. In the past few years continuous efforts have been deployed to obtain increased budgetary resources to match the SCPC's expanding functions. Those attempts have not always succeeded: the SCPC's budget for 2017 was reduced by 13%. The budget for 2018 was approximately 440 000€.

55. The GET was made aware that five (of seven) SCPC members had resigned and left this body dysfunctional since March 2018 and that In July 2018, the Minister of Justice announced the creation of a new model for an anti-corruption commission. Following the adoption of LPCCOI in January 2019, the new State Commission has been established on 8 February 2019 by a Decision of the Parliament also appointing the President and six members of the SCPC.

56. Low public trust in the former SCPC (cf. context chapter), the issue of its independence, lack of resources and action are further dealt with below.

Ethical principles, rules of conduct and awareness

57. Before taking up office, the Prime Minister and ministers are to solemnly declare before the Assembly their commitment to respecting the Constitution and the laws. Standards of conduct are set out in the 2010 Ethical Code of Members of Government and of Holders of Public Functions Appointed by the Government and the 2018 Guidelines for Good Governance of Elected and Appointed Officials in the Executive Branch. Their overarching goal is to ensure the accountability and transparency of the government and to strengthen the public's confidence in its work. Both texts were published in the Official Gazette and are available online.

58. The existence of the Ethical code and the more recent elaboration of the guidelines for ethical conduct of government functionaries are to be welcomed. The Code covers general terms; basic principles; conduct in the performance of functions; relations with the public administration; acceptance of gifts; relations with citizens; public presentation of policy; protection and economic use of state assets; and the consequences of breaching the Code. The Guidelines comprise principles such as avoidance of conflicts of interest, collective responsibility, collegiality and discretion of government members, separation of state from party functions and official from private goals, engaging in party activities while in office, conduct towards public sector employees, support to the Prime Minister and ministers through their cabinets, presentation of policies, using material resources – integrity in expenses, reimbursements, acceptance of gifts and honours, travel, activities upon expiry of office and implementation.

59. The GET notes that the two documents are valuable and that they deal with pertinent matters. At the same time it notes some shortcomings, e.g. that public officials' interaction with third parties, including lobbyists, is not covered. Respect of the code is only a matter of "moral and ethical responsibility". Alleged breaches are to be reported to "the competent authority determined by law", which, to the GET's knowledge, has not been established. Implementation of the guidelines is to be monitored by a "special adviser" in the Prime Minister's Office through instruments to be defined by a Prime Minister's ordinance – neither was in place at the time of the on-site visit.

⁴² Article 58 LPCCOI

60. In the view of the GET, given the common substance and objectives pursued, it would be sensible for the Code and the Guidelines to be implemented via a single mechanism bestowed with interpretation, advisory and counselling powers. Entrusting “special advisers” who are themselves not subject to any standards of conduct with such functions would not be appropriate; designating a responsible government member for certain roles would seem a more suitable option. Breaches of the code should lead to sanctions and prompt an open governmental debate.

61. Bearing in mind that strengthening “integrity and ethics in the institutions at all levels” has been designated as the country’s strategic objective for 2016-2019, the top of the state hierarchy needs to lead that action, in tandem with the SCPC as the institution in charge of promoting holistic integrity systems in the public sector and supervising functionaries across all branches of power. Likewise, the SCPC’s primary training efforts should be directed at functionaries, which has not been the case so far. In view of the shortcomings noted in previous paragraphs, **GRECO recommends that the Ethical Code applicable to persons entrusted with top executive functions i) be subject to enforcement by means of a mechanism equipped with sanctioning powers; and ii) be subject to systematic awareness raising in respect of persons entrusted with top executive functions via training, dedicated guidance and counselling, including confidential counselling.**

62. Ethical standards and rules of conduct for administrative servants (i.e. civil servants, public servants and cabinet servants) are established by the 2014 Code of Administrative Servants adopted by the Minister of Information Society and Administration. Non-compliance carries disciplinary liability. Some ethics-related rules are moreover contained in the LPSE, which applies to administrative servants and also to “special advisers”⁴³. The conduct expected of “external associates” is not regulated.

Transparency and oversight of executive activities of central government

Access to information

63. Access to public information is guaranteed by the Constitution (Article 16). To implement this constitutional right, the Law on Free Access to Public Information was adopted in 2006, defining the procedures for exercising this right. The Law has been subject to amendments since then, nevertheless the GET is aware of continuous reports of its weak and ineffective implementation.⁴⁴ The implementation of the Council of Europe Convention on Access to Official Documents (CETS 205), which has been signed by North Macedonia in 2009, and of Recommendation Rec(2002)2 of the Committee of Ministers to member States on access to official documents, would significantly increase the principle of transparency of documents held by public authorities.

64. All legal regulations are generally accessible free of charge to the public – in the Official Gazette and online, including on the Ministry of Justice’s and the SCPC’s websites. In 2017, the Ministry of Information Society and Administration published a List of Acts and Materials that ministries and other state administration bodies must compulsorily publish online.

65. The Secretary General of the Government ensures the publication of government acts in the Official Gazette⁴⁵. Government decision-making documents are not entirely public as only final decisions/conclusions and certain documents of particular public interest are accessible. Such documents can nonetheless be requested based on the Law on Free Access to Public Information. The

⁴³ For example, they are to maintain the high standards of personal integrity, professional ethics and care for the protection of the public interest and to comply with the documents regulating those standards. Furthermore, they are to carry out their tasks and duties in a politically impartial manner, and not be influenced by their political beliefs and personal financial interests - Article 9 LPSE.

⁴⁴ Stated repeatedly for example by the European Commission in its annual Progress Reports

⁴⁵ Article 20(8) of the Government’s Rules of Procedure

Government's spokesperson is to regularly inform the public of the Government's work and of adopted conclusions⁴⁶.

Transparency of the law-making process

66. A proposal to review materials, including bills, at a government session may be submitted by the prime minister, ministers, directors of independent state administration bodies and the Government's Secretary General⁴⁷. The College of State Secretaries first assesses the extent to which the materials are ready for submission and whether the conditions set out in the RoP have been met⁴⁸.

67. The Government may establish boards, commissions and expert councils as permanent consultative bodies to review and solicit expert opinion on legal, economic and other issues⁴⁹. At the invitation of the Prime Minister, representatives of citizens' associations, foundations, institutions and other legal entities can attend government sessions to participate in a debate and to present views and suggestions⁵⁰. Similarly, representatives of interested organisations, citizen's associations, trade unions and chambers, the scientific and academic community may be invited to sessions of the government's working bodies by their presidents or the "initiators of the materials" in question⁵¹.

68. The GET notes that the agenda, minutes and conclusions of government sessions are publicly accessible online (www.vlada.mk/vladini-sednici) and that decisions are to be published in the Official Gazette⁵². Nevertheless, according to Article 92 RoP, the minutes of government sessions are only to show the names of specially enumerated public officials, not of any invited third parties. Even though the General Secretariat has insisted that there is no practice of inviting third parties to government sessions, the fact that such an option is explicitly provided for by the LoG and the RoP cannot be neglected and there is a risk that their names would not be made public due to legal requirements. Consequently, in order to promote greater transparency of internal decision-making processes and their openness to public scrutiny, **GRECO recommends amending government rules to ensure that the names and function of all attendees of government sessions, sub-committees and working groups, including any third parties, are publicly accessible online.**

69. Broad consultations of public and private sector stakeholders are held at the stage when ministries and other state administration bodies are drawing up laws/regulations. In accordance with the Regulatory Impact Assessment Methodology (RIA), ministries are to ensure stakeholders' involvement throughout the RIA process. This is done via: public announcement of the type, content and deadline for adoption of a law/regulation; a public debate; and seeking the opinion of interested citizens' associations and other legal entities, etc.⁵³

70. To strengthen the consultation process, the Single National Electronic Registry of Regulations (ENER) gives access to a report on the drafting of a law, a draft RIA report and the working version of the draft legislation. All proposals for draft legislation and the bills themselves are published on the competent ministry's website and in the ENER⁵⁴. To meet the obligation to consult by means of the ENER, the portal has been linked to the (internal) e-government system which ensures that drafts in a government procedure cannot be submitted without first being published on the ENER.

⁴⁶ Article 40-a(2) LOG

⁴⁷ Articles 64 (2) and 73(1) of the Government's Rules of Procedure

⁴⁸ Article 70 RoP

⁴⁹ Their type, number, members and competence are regulated by the RoP - Articles 23 and 24 LOG.

⁵⁰ Article 22 LOG

⁵¹ Article 49 RoP

⁵² In accordance with the Law on Publication of the Laws and other Regulatory Acts in the Official Gazette of the Republic of Macedonia

⁵³ Pursuant to Article 10 of the Law on Organisation and Operation of State Administration Bodies

⁵⁴ Article 68-a RoP

71. The state administration bodies must publish draft legislation for consultation purposes on the ENER and on their own website for a minimum period of 20 days; any interested party can submit an opinion on the draft during this period via the ENER⁵⁵. Ministerial rules of procedure establish an obligation to provide feedback from the consultation process. Information regarding that process is to be presented in the RIA report, including the list of stakeholders and how they were involved and a summary of the opinions accepted/rejected, explaining any rejections.

72. The majority of the GET's interlocutors from outside the government appreciated the introduction of the ENER, which allows for public consultations in all phases of the legislative procedure and is a good example of citizens' participation. The involvement of NGOs and academia has also been praised: they have actively contributed to the formulation of anti-corruption policies/strategies and participated in the Working Group on the new anti-corruption bill.

Third parties and lobbyists

73. The Law on Lobbying deals with lobbying from the point of view of lobbyists. This law regulates lobbying principles, the conditions for acquiring a lobbyist position, the registration of lobbyists, the maintenance of the Lobbyists' Register, lobbyists' rights and obligations, the activities that are not deemed to be lobbying and the measures that can be imposed on lobbyists for breaches of this Law. But it does not regulate the conduct of public officials in respect of lobbyists. However, the law places an obligation on top executive officials (appointed or elected functionaries only) in the central executive bodies (among others) not to engage as lobbyists when in office. This is also referred to under "Incompatibilities", see below (paragraph 86). If those functionaries are remunerated according to law, the prohibition also extends to *one year after* their entitlement to remuneration ceases. A similar ban applies to other persons employed in central executive and legislative bodies, and in local government for whom the cooling-off period runs for six months at the end of their term of employment, except for personal advisers and external associates. In addition, violations of the law by lobbyists are to be reported by functionaries to the SCPC.

74. The GET notes that the Law on Lobbying regulates, contrary to the Recommendation of the Committee of Ministers no. CM/Rec(2017)2⁵⁶, primarily the lobbyists (and not public officials). However, in addition to the rule depriving executive officials from being lobbyists (Article 8, further dealt with below), the law states that lobbyists are to comply with particular rules of the public offices (Article 15), which implies that such rules are to be established. In this respect, the sole measure which appears to have been implemented to date is the appointment in public sector entities of persons responsible for centralising the information on their employees' contacts with lobbyists and sending biannual reports on the number of such contacts to the SCPC. The internal rules on holding meetings with lobbyists that the government and ministries were to adopt pursuant to the law⁵⁷ have not materialised. Accordingly, **GRECO recommends introducing rules governing i) the interaction of persons entrusted with top executive functions with lobbyists and third parties seeking to influence the public decision-making process; and ii) the regular disclosure of such contacts, including the subject matter(s) discussed, and the identity of the persons participating and/or represented at such meetings.** The issue of sanctions is dealt with in the relevant section below.

75. As for central government staff other than functionaries (all categories of public servants and advisers), the absence of relevant regulations is dealt with in paragraph 46.

Control mechanisms

⁵⁵ Ibid

⁵⁶ Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making

⁵⁷ Pursuant to Article 15(2) of this law

76. The Ministry of Finance has a controlling function of the finances and reports annually to the government.

77. The main external control of the state budget and the effective performance of state bodies is carried out by the State Audit Office (SAO), which reports annually to Parliament. The audit includes examination of documents, papers and reports on performed internal controls and internal audits, accounting and financial procedures, electronic data and information systems and other records assessing whether the financial reports present the financial positions and the results of the financial activities, in accordance with the adopted accounting policies and accounting standards. The SAO's annual reports are public and are to include information on all corruption cases, which SAO has come across and referred to competent bodies, including the SCPC. Under the Law on State Audit, audit reports concerning individual institutions are to be published online within 14 days of adoption; this rule however is not always respected in practice (see the chapter on law enforcement bodies). The SAO is to report all suspicions of fraud to the prosecutor's office. So far no cases involving central government have emerged.

78. The Ombudsman Office only plays an indirect role in corruption prevention, in the context of complaints on maladministration by state authorities, submitted by the public.

Conflicts of interest

79. The LPCCOI defines conflicts of interest as a conflict between "public authorisations and duties"⁵⁸ and an official's private interest which has or could have an impact on the impartial performance of his/her "public authorisations and official duties". In 2016, the SCPC published a "Conflicts of Interest Management Guide" (<http://www.dsk.org.mk/images/Priracnici/3%20priracnik.pdf>), which distinguishes between real, probable and potential conflicts of interest.

80. Within 30 days following their appointment, all functionaries are to file with the SCPC a declaration of assets and interests on the existence or not of conflicts of interest. Statements are collected in both in electronic and hard copy and recorded in an e-database by the SCPC staff. They are accessible to the public (except data protected by law).

81. The scope of declaration of interests *on election/appointment/employment* in central government is generally adequate and does not raise any particular issues. The replacement of the paper-based statements and asset declarations with a single electronic form by LPCCOI is a welcome development as it removes the need to duplicate information, facilitate oversight of both interests and assets, and arguably have potential for making the management of conflicts of interest more reliable and transparent.

82. As for the *case-by-case management of conflicts of interest* is concerned, the GET welcomes the rule in the art. 73 LPCCOI which provides that, when an authority/body is to examine/decide on a matter in which a functionary/civil servant has a private interest, the interest is to be reported before the discussion/decision-making and acknowledged in the minutes of the meeting. However, the rest of the LPCCOI provisions on *ad hoc* disclosure – though amended in the new law - are inconsistent and ill-suited for functionaries. When a functionary suspects there *might* be a conflict of interests, s/he is to ask the SCPC for an opinion⁵⁹. If a conflict seems *likely*, s/he must take all necessary measures to prevent its influence⁶⁰. When a conflict *is identified*, s/he is to ask to be exempted and cease being involved in the matter concerned; the recusal has to be accepted by a decision of a body to which s/he

⁵⁸ Article 8 (9) and (10) LPCCOI

⁵⁹ Article 72(3) LPCCOI

⁶⁰ Article 72(2) LPCCOI

is elected/appointed to or at the request of an interested party⁶¹. Functionaries participating (on the decision-making side) in election, appointment or employment procedures and have a private interest in the procedure concerned, are obliged to inform the head of his/her institution who shall take all necessary measures to prevent the conflict. The functionary and the head of institution involved might request an opinion of the SCPC⁶².

83. The GET also notes that no statistics were kept on the number of conflicts of interest declared in central government. During the visit, only very few examples were given of functionaries declaring conflicts of interest *ad hoc*. SCPC representatives met on-site agreed that the then existing provisions taken together could give rise to uncertainty and that they appeared unclear even to practitioners. The GET notes that the provisions in the LPCCOI remain the same and concludes that clarification and additional guidance would be beneficial in this respect. Consequently, **GRECO recommends that the rules on *ad hoc* disclosure and the management of situations of conflicts of interest be complemented with practical guidance and practical measures for their implementation, such as dedicated training, counselling and awareness-raising for persons entrusted with top executive functions.**

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

84. Incompatibilities are governed by the Constitution and the LPCCOI. The positions of prime minister and minister are incompatible with a mandate as MP or holding any other public office or profession⁶³. Further, Articles 44 and 45 LPCCOI impose a series of restrictions. Functionaries and appointed/elected persons are prohibited from holding or carrying out any office, duty or activity incompatible with their functions. Civil servants may not exercise any profitable activity incompatible with their duties; other works/activities may only be carried out with prior approval of the responsible functionary. Both functionaries and civil servants are prohibited from: a) concurrently holding a responsible office or being a member of the management or supervisory board of a company, public enterprise or public institution using public funds; and b) being a member of a management or supervisory board of a company or an entity involved in profit making activities. They may not be a member of the management or supervisory board of a company, public enterprise, agency, fund or any other structure with dominant state funding, unless specified by law, with some exceptions⁶⁴. Prior to taking up public office, those of them who own or manage a commercial company or an institution, must entrust its management to another person who is not affiliated to them, or to a separate body⁶⁵. While in office, they may not acquire shares or rights in an entity where they previously worked or in respect of which they have had a supervisory role, unless acquired by way of inheritance - which is to be reported to the SCPC.⁶⁶ Violations carry a fine ranging from 300€ to 500€.

85. As already noted in this report, the Law on Lobbying prohibits elected and appointed officials from lobbying during their term of office as well as after that term (see Post-employment restrictions, below).

Contracts with state authorities

86. Although there is no explicit prohibition on functionaries and civil servants entering into contracts with state authorities, they are to report to the SCPC any transaction involving state assets

⁶¹ Article 75 LPCCOI

⁶² Article 74 LPCCOI

⁶³ Article 89 of the Constitution

⁶⁴ Article 49 LPCCOI

⁶⁵ Article 45 LPCCOI

⁶⁶ Article 55 LPCCOI

in a company owned or controlled by them or a family member within 10 days of election/appointment/employment⁶⁷. Violations carry a fine ranging from 300€ to 500€. Article 75 LPCCOI (on self-recusal in case of conflict of interests) is relevant as well. General rules on conflicts of interest would also be applicable in respect of contracts with state authorities.

Gifts

87. The acceptance of gifts is regulated by the LPCCOI, the Law on Use and Disposal of State Owned and Municipal Property Items (LDSMP), a Government Decree from 2015 and the Ethical Code of Members of Government.

88. Article 58 LPCCOI *bans* the receipt of gifts while performing public authorisations or duties, bar the exceptions contained in the LDSMP (see below). State bodies and institutions are to report to the SCPC annually of any gifts received, they are notified if the Commission rules a gift has been accepted in violation of LPCCOI. Such a gift becomes property of the State or the unit of local self-government. Sanction of 300€ to 500€ has been established for breaches of the aforementioned rules.

89. Articles 55 and 56 LDSMP only stipulate that state bodies and their representatives, including central government functionaries and civil servants, “may receive and give gifts” in accordance with a government regulation. The regulation is provided by the 2015 Government Decree⁶⁸, pursuant to which government members may receive “personal gifts” of a value below 100€ from representatives of a *foreign* country, body, institution or international organisation. A gift of a value above 100€ may be retained, provided that any value exceeding 100€ is credited to the state budget. The valuation is to be carried out by certified experts and a gift’s value recorded. All gifts received are to be reported to and registered by the body where the person concerned performs his/her official functions.

90. The Ethical Code of Members of Government provides that members of government, deputy ministers and others performing public functions who are appointed by government are prohibited from: a) requiring and accepting gifts or any other benefit for themselves or other persons; and b) accepting that another person gives or receives on their behalf a gift, favour or any other good, assistance or benefit in connection with the performance of their functions, which could influence their decisions, or requiring or allowing another person to do so.

91. As for “administrative servants” (except civil servants) and “special advisers”, by virtue of the LPSE, they must not accept gifts related to their work except protocol and occasional gifts of a low value. Gifts of a value below 16€ or of a total value of 48€ per annum received by the same person shall be deemed low value gifts. Gifts from officials or international organisations when an administrative servant/special adviser is a guest or on other similar occasions shall be deemed protocol gifts⁶⁹. Both categories are to warn the giver of the gift that gifts exceeding the above value shall accrue to their employer. These rules also apply to spouses, partners, children, parents and persons living in the same household. The way in which gifts are reported and registered is similar to that described above and determined by a government regulation from 2014.

92. From the GET’s perspective, the above rules are problematic in several respects. The prohibition of receiving gifts under LPCCOI consists in receiving a gift *in the exercise* of one’s duties. The terms “gift”, “reward”, “advantage” and “benefit” appear to be used interchangeably in the law since the concepts of “gift” and “reward” are missing. Compared to the LPCCOI, the Ethical Code follows a stricter approach in that it forbids gifts more clearly, but not fully. As for the threshold established by the LDSMP, it only applies to *foreign* gifts; no limits are set for acceptable domestic gifts.

⁶⁷ Articles 53 and 105 LPCCOI

⁶⁸ “On the criteria, the giving and receiving of gifts, declaration of gifts, valuation of gifts, purchasing personal gifts, and the use, storage and keeping of records of gifts that become the property of the state”

⁶⁹ Article 39(1) LPSE

Although any *domestic* gift becomes a property of the state, it was confirmed on-site that, in practice, both domestic and foreign gifts were accepted and could be kept provided they are reported and any value in excess of 100€ is credited to the state. GRECO has previously insisted that the acceptance of gifts when holding public office should be exhaustively regulated, preferably by law, prohibited as a matter of principle, that the only exceptions are symbolic/protocol gifts of a fixed value, and that all gifts received are recorded, as a main rule. Since the many deficiencies highlighted above were only partly remedied by the new anti-corruption law,⁷⁰ **GRECO recommends that the existing rules on the acceptance of gifts by persons entrusted with top executive functions be simplified and that advice on how to manage such situations be provided.**

Misuse of public resources

93. Article 54 LPCCOI states that the use of state resources for private goals or the transmission of such resources to other persons is prohibited. The protection and economic use of state assets are also addressed in the LPSE. Violations of both laws do not give rise to any sanctions.

Misuse of confidential information

94. When in office and for three years from leaving office, a functionary (and a civil servant) may not use the information at their disposal to gain benefit for themselves or another party⁷¹. The handling of confidential data is regulated by the Law on Classified Information. Disclosure of official secrets and misuse of official, military and state secret entail criminal liability.

Post-employment restrictions

95. Article 47 LPCCOI establishes post-employment restrictions. Within three years from leaving office, a functionary/civil servant may not be employed by a company in respect of which s/he has had a supervisory role or with which s/he has established a contractual relationship. Within the same timeframe, s/he may not acquire shares or rights in an entity in which s/he used to work or in respect of which s/he has had a supervisory role. Within two years from leaving office, s/he may not represent natural or legal persons before the authority in which s/he previously worked, if s/he had participated in the taking of a decision on related matter. A functionary/civil servant who has found a job in the private sector within three years from leaving office, is to inform the SCPC⁷². A functionary/civil servant who, within three years from leaving office, establishes a trade company or begins a profit making activity in the field in which s/he used to work, has to inform the SCPC⁷³. Violations carry a fine ranging from 300€ to 500€.

96. Furthermore, as already mentioned, Article 8 of the Law on Lobbying prohibits functionaries from lobbying until one year after they have ceased receiving a salary.

Declaration of assets, income, liabilities and interests

97. In accordance with Article 82 LPCCOI, functionaries (and civil servants) are to declare their and their family's assets. Declarations are to be filed within 30 days of appointment, when there is an increase in assets, and within 30 days from leaving office. The content and form of the declaration are set by the SCPC and the form itself is published in the Official Gazette and on the SCPC's website. Declarations are presented to the SCPC (electronically and in hard copy) and published on the SCPC's

⁷⁰ It abandons the definition of a gift (only the term "benefit" is defined) and preserves a reference to the LDSMP as the law which determines the value of acceptable gifts, which is not the case.

⁷¹ Article 50 LPCCOI

⁷² Article 48 LPCCOI

⁷³ Article 48 LPCCOI

website, except for data protected by law (http://www.dksk.org.mk/imoti_2/). Failure to submit a declaration as well as incomplete or incorrect disclosure give rise to a fine ranging from 300€ to 500€⁷⁴.

98. The GET notes that the regime for declaring financial interest applies to persons entrusted with top executive functions in the government and the financial interests of their close family members, i.e. spouses and dependent children and that these declarations are made public.

Oversight mechanisms

99. The GET notes that the inauguration in 2002 of the system for declarations of interests and assets by functionaries (and civil servants) was viewed positively and the obligation to file appears in large to be respected. Yet, most interlocutors agreed that the overall system was cumbersome and had a number of inherent weaknesses. First, establishing the exact number of functionaries across all branches of power was a challenge. All public agencies were to submit to the SCPC the names of functionaries when elected/appointed for inclusion in the central register. That obligation was often not respected, and even though in such cases the SCPC can impose sanctions on the head of the agency concerned, it rarely did so.

100. Secondly, controls of conflicts of interest in respect of functionaries were inefficient. The GET heard multiple complaints about interests and assets not being properly scrutinised and allegations of conflicts of interest not investigated or failing to trigger an official institutional reaction (e.g. in a case where subsidies were allegedly received by companies owned by ministers or their family members). Although the SCPC is responsible for implementing post-employment rules, it has never published any related findings. Most importantly, the SCPC was not able to impose penalties other than public warnings when it identifies a conflict of interests.

101. Thirdly, in terms of oversight of functionaries' assets, the former law has attributed what seem to be very similar competences to the State Revenue Office (SRO) and the SCPC where declarations were checked by a three-member unit whose expertise has been limited and cases needed to be transferred to the SRO. In addition to on request inspections, the SCPC conducted basic checks of all asset declarations received but without any dedicated methodology, therefore most inspections ended up in protracted appeals (up to 7 years) or renewed checks or only minor penalties. Non-disclosure of declarations or of updates, withdrawal of declarations from the SCPC's website against the background of public controversy and failure to sanction non-submission of declarations were said to be habitual.

102. The GET very much appreciates the candid exchanges of views it had with representatives of the two former oversight bodies and their critical perception of their rather archaic modes of operation: processing of paper documents, lack of storage space, manual input of information into databases/logbooks, no direct access to most public registers which generates time-consuming correspondence. As for SCPC, at the time of the on-site visit, it operated at half its capacity: of 51 posts for staff only 22 were filled. Moreover, trust in the SCPC has been long undermined by the perceived political affiliation of its members which is seen as the prime reason for its selective approach and passivity in certain cases. The SCPC's annual reports have been criticised for their vague and incomplete presentation of activities. Finally, the unscrupulous behaviour and resignation of five (of seven) SCPC members has left this body dysfunctional since March 2018 (cf. context chapter) and accentuated the need for reform.

103. In July 2018, the Minister of Justice announced the creation of a working group responsible for the elaboration of a new model for an anti-corruption commission as part of a new anti-corruption bill. In January 2019 the LPCCOI was adopted. Supervision over official persons' (meaning all elected or

⁷⁴ Article 109 LPCCOI

appointed persons and public sector employees) asset declarations and statements of conflict of interest is thereby entrusted to the SCPC only.

104. The GET warmly welcomes this change of approach of entrusting one single body to supervise asset declarations and statements on conflict of interest. In its view, the system for interest and asset disclosure will acquire a distinct value and credibility, instil confidence and produce tangible results only if it is equipped with an oversight mechanism which is independent in law and in practice and capable of conducting substantive audits of those who have a limited tenure of office and who are perceived as vulnerable to corruption and undue influence. This applies first and foremost to central government functionaries. In view of the above and bearing in mind the new provisions on management of conflicts of interest are fairly recent and have not yet been fully applied, **GRECO recommends that the oversight in respect of declarations of interests and assets of persons entrusted with top executive functions in the government be strengthened by (i) providing the State Commission for the Prevention of Corruption (SCPC) with human and financial resources, competences, methodologies and tools that are proportionate to the proper and effective performance of its duties; (ii) establishing an appropriate verification mechanism and conducting investigations when necessary and (iii) making its results public, as appropriate.**

Accountability and enforcement

Immunities, administrative and criminal proceedings

105. Within the Government, only the Prime Minister enjoys immunity⁷⁵. The lifting of immunity is decided by the Assembly, in accordance with the rules applicable to MPs (Articles 53-54 of the Assembly's Rules of Procedure). So far, such a procedure has not been invoked.

106. All other public officials are subject to the same criminal procedures established by the Criminal Procedure Code as any citizen.

Sanctions

107. The interlocutors met by the GET broadly agreed that the existing sanctioning regime had been fairly weak under the former legislation. It failed to encompass all violations established by law, which weakened the system as a whole. Under the LPCCOI, violations of the law are subject to fines, such as failure to file a statement of interests, non-compliance with certain incompatibility and post-employment restrictions, and establishing business relations with affiliated legal entities. Some violations are subject to fines up to 1 000€, but for most of the aforementioned breaches they range from 300€ to 500€ (used to be from 500€ to 1 000€ according to former legislation). Although the Law on Lobbying prohibits functionaries from engaging in lobbying when in office and one year after entitlement to public remuneration ceases, no sanctions apply. In view of the above, **GRECO recommends analysing the practical application of the system of sanctions in respect of violations of conflicts of interest, integrity and anti-corruption legislation/regulation and ensuring that the sanctions are effective, proportionate and dissuasive.**

Statistics

108. The authorities refer to ten criminal cases of corruption involving 16 functionaries (13 male and 3 female) who are under investigation or before a court of first instance. The most common charges are "abuse of official position and authorisation" and "receipt of a reward for an unlawful influence". The persons concerned are *inter alia* the Prime Minister, the deputy prime minister in charge of economic affairs, ministers for transport and communication, health, agriculture, forestry and water economy, culture, internal affairs and two assistants to ministers.

⁷⁵ Immunity of ministers was revoked in 2005 through a constitutional amendment.

109. In the past five years, three functionaries have been removed from office on grounds of corruption or related misconduct, and a prime minister, ministers of the interior, transport and communication, labour and social policy, as well as five members of the SCPC (including the President) have resigned due *inter alia* to public allegations of corruption.

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability of the police and border guard authorities

Overview

110. The law enforcement authorities consist of the Ministry of the Interior, the Financial Police Directorate and, to some extent, the Customs Administration⁷⁶ (the latter two bodies are subordinated to the Ministry of Finance). “Police affairs” are the responsibility of the Public Security Bureau (PSB) within the Ministry of the Interior.⁷⁷

111. The Law on the Police (LOP), on the basis of which the PSB operates, regulates the organisation and powers of the police as well as the rights and duties of the police as employees of the Ministry of the Interior. The Law on Internal Affairs (LIA) prescribes *inter alia* the organisation and authority of the Ministry of the Interior, the status of its employees, the system of control and disciplinary liability.

112. The basic functions of the police are to protect and respect the fundamental freedoms and rights of individuals and citizens guaranteed by the Constitution, laws, ratified international agreements and the legal order, to prevent and detect punishable acts, to take measures to prosecute the perpetrators of those acts, and to maintain the public order and societal peace⁷⁸. The police are also responsible for border checks and border surveillance.

113. The PSB is sub-divided into the Departments for Criminal Police, Uniformed Police, Border Affairs and Migration, Criminal Intelligence and Analysis, Common Affairs and Human Resources Management, Suppression of Organised and Serious Crime, Protection of VIPs and facilities, Aviation, Special Police Operations and Criminal-Technical Investigation and Expertise. Subordinated to the PSB are also eight sectors for internal affairs and four Regional Centres for Border Affairs which carry out state border checks and surveillance.

114. The PSB staff consists of: 1) “authorised persons” governed by the LIA (police officers and employees, both of whom additionally fall under the category of persons who have “special duties and authorisations”); and 2) employees governed by the Law on Labour Relations. A police officer is an authorised person, a uniformed or non-uniformed member of the police with police authorisations who performs police duties in accordance with the LOP. The PSB employs a total of 10,191 persons (65.5% uniformed police officers, 28,8% non-uniformed police officers, 5,5% employees governed by the LIA and 0,17% employees governed by the Law on Labour and Social Policy), of which 84% are men and 16% are women. The subsequent sections of this report only refer to police officers and employees governed by the LIA.

115. The operational principles of the police include *inter alia* lawfulness, high personal integrity, professional ethics, impartiality, objectivity and *political neutrality*.⁷⁹ Police officers may not establish, manage, support or represent a political party or be a member of its governing bodies. Party membership or participation in party activities may not compromise the professionalism, impartiality and lawful performance of duties⁸⁰. There is a prohibition on wearing or exhibiting party symbols on police premises and vehicles, attending party activities in uniform (unless on official duty), being organised by or acting on behalf of a party within the Ministry. As persons with special duties and authorisations, the police are additionally banned from organising and acting for political aims in the organisational units of the police and may not directly or indirectly express or represent party views

⁷⁶ Pursuant to the Criminal Procedure Code

⁷⁷ The two key bodies of the Ministry are: the PSB and the Office for Security and Counterintelligence – see Article 17 LIA.

⁷⁸ Article 3 LOP

⁷⁹ Articles 7 and 10 LIA

⁸⁰ Articles 105 LOP and 168 LIA

and actively participate in party activities⁸¹. Until 2006, the police were banned from joining political parties. Amendments to the LIA replaced that ban with the aforementioned safeguards. However, the GET has doubts about the adequate level of compliance with these safeguards in view of the concerns expressed by some of the interlocutors that there is a general perception that the police is politicised. The GET takes these indications seriously. That said, the existing principles on lawfulness, high personal integrity, professional ethics, impartiality, objectivity and political neutrality provide a satisfactory basis for the police in this respect. Deficiencies in their practical implementation were however identified.

116. Pursuant to Article 153 LIA, police officers are to execute instructions of the Minister of the Interior and their superior, unless doing so would constitute a crime. More detailed rules are contained in the Guidelines on the conduct and interactions of police officers and in the Rulebook of employees with special duties and authorisations in the Ministry of the Interior⁸². The chain of command is defined by the Guidelines for Establishing Organisational Procedures for Management, Command and Control in the Process of Conducting Criminal Investigations and Performing Police Matters. All decisions and orders are to be recorded in a Logbook that is with court approval open for inspection by court, a public prosecutor, the Ombudsperson and other relevant persons. However, when asked by the GET, interlocutors were unable to confirm such inspections are allowed in practice. Such shortcoming would be in grave contrast to European standards as public prosecutor must be able to scrutinise the lawfulness of police investigations when deciding whether a prosecution should commence or investigation should continue.⁸³ Police operations are controlled/overseen by the Minister and the Government. The Minister is to submit to the Government and the Assembly an annual report on the results of police work and the report is to be published online. An annual financial report is presented to the Ministry of Finance.

117. The GET takes note of the command chain described above, where the Minister of the Interior is the top commander of the police and that his/her orders are to be followed by the police (unless unlawful). It is concerned that the Minister as a result may intervene in police operations, which provides for political influence over the police. The GET takes the view that the ministry responsible for police matters should be in charge of questions, such as policy matters, budgets and questions relating to prioritisation etc., but not in respect of the operations of the police, such as investigations and other forms of interventions, which should remain the sole responsibility of the head of the police (Commissioner), who is accountable to the Ministry. Operational independence of the police in combination with full accountability for actions taken is at the core of Council of Europe standards for democratic policing⁸⁴. Such a demarcation between the political level (ministry) and the operations of the police appears necessary in order to depoliticise the police in North Macedonia and be balanced with personal responsibility and accountability of the police personnel.

118. In view of the foregoing, the GET sees a strong need to depoliticise the police. This would require clear demarcation between ministerial policy powers in respect of the police and operational independence of the police. It is also linked to the individual officers' behaviour, i.e. to act in a neutral non-political manner with integrity when performing their tasks. In fact these two issues are closely inter-linked. Consequently, **GRECO recommends that (i) sufficient operational independence of the police vis-à-vis the Ministry of the Interior be provided and ensured in practice, and (ii) pertinent measures be taken in order to ensure individual police officers' duty to comply with the existing rules on integrity and impartiality in order to carry out their functions in a politically neutral manner**

⁸¹ Article 15 of the Rules on the conduct and interactions of employees with special duties and authorisations in the Ministry of Interior

⁸² Articles 21 and 37, respectively: If the received order is illegal and its execution constitutes a crime, the authorised official person is to warn about it the person who issued the order and to refrain from executing it; s/he shall not execute the repeated order in writing, if its execution would constitute a crime.

⁸³ Recommendation Rec(2000)19 on 'The Role Of Public Prosecution In The Criminal Justice System' Adopted by the Committee of Ministers of the Council of Europe on 6 October 2000

⁸⁴ European Code of Police Ethics , Rec (2001)10

in practice (e.g. through awareness, training, sanctions etc.). In this context, the GET notes that depoliticising the police is one of the priorities in the Anti-Corruption Programme 2018 of the Ministry of the Interior. It is also a recurring theme in this report.

Access to information

119. Relevant laws and bills are published on the Ministry's website, in the section entitled "Legislation". Citizens, state bodies, public enterprises and other legal entities may, on request, receive from the police/the Ministry information, data and notifications on issues "in which they are directly interested" or which "concern them directly"⁸⁵. Under the law on Free Access to Information the Ministry submits basic information on statistics and laws. Information on internal systemisation of the Ministry, criminal proceedings (on-going and completed) or any information on personal data is denied as this information is exempted from the Free Access to Information Law (Art. 6). The GET was unable to review the practical application of these provisions due to the absence of information on statistics of requests for information and reviews of decision in contested situations.

120. Despite the elaboration of "Guidelines for Communicating with the Public" that were distributed to all organisational units of the Ministry in 2007 and "Guidelines for the manner of use of social networks by the employees of the Ministry" in 2012 the Ministry is considered one of the least open public institutions in the country. In its 2018 Anti-Corruption Programme (cf. further below) the Ministry declared its intention to reverse that and to transform itself into an agency which is accessible and willing to inform the public about all issues falling within its competence. The GET supports such an approach.

121. While on site, the GET was informed that, in the past two years, the Ministry, and the PSB as its key structural part, have taken deliberate steps to attain higher transparency levels: an assistant minister (a former journalist) has been hired to lead that work, the number of daily reports/bulletins published has increased, communication with journalists has been facilitated by holding regular briefings and establishing a policy of free access to the ministry's premises. Nevertheless, many interlocutors complained that the information on the PSB's/Ministry's revenues, expenses and borrowing was kept confidential and could only be scrutinised as a part of the country's overall budget prepared by the Ministry of Finance. Public procurement plans and certain internal rulebooks were classified by a Government decision of 19 December 2017. The audit report produced by the State Audit Office in 2015⁸⁶ was sealed along with three thematic SAO audits dated from 2012, 2014 and 2016 (on internal control, public procurement and sick leave). Last but not least, information on certain contact persons and services, e.g. those in charge of protected external disclosures, is not easily accessible or searchable by the public.

122. The GET recalls that the Ministry's Anti-Corruption Programme (cf. below) prioritises accountability and transparency in tackling corruption and acknowledges that its purpose is to prevent the police from overstepping its powers, hinder abuse of subordinates by the hierarchy and to promote integrity and increase citizens' trust in the police force. Transparency in policing, as flows from the Programme, implies public access not only to policies and laws but also to *budgets, decisions taken and activities performed*. Those strategic objectives and commitments have not yet been translated into everyday practice. There is a pressing need to do so as external supervision is inadequate (cf. below) and there is growing public demand for heightened accountability of the police and greater transparency of public resources allocated to it. In this context, **GRECO recommends increasing the transparency of the police by enhancing access to information *inter alia* by making reports on the results of its activities and decision making, police budgets, administrative proceedings, including public procurement reports, statistics, rulebooks and similar information publicly accessible,**

⁸⁵ Articles 10 LOP and 5 LIA

⁸⁶ On the "Efficiency and effectiveness of financial management and control system and internal audit in the Ministry of the Interior"

preferably on-line. GRECO recognises the universal access to information, with any limitation being an exception, subject to clearly defined rules and with the possibility of review.

Public trust in law enforcement authorities

123. The information on public trust in the police is contradictory. As mentioned in the context chapter, in some polls the police are deemed to be among the most trusted institution in the country. At the same time, the level of bribery is perceived as being high and, in some surveys, the police service is considered to be one of the most corrupt institutions. According to the Ministry of the Interior's 2018 Anti-Corruption Programme, the traffic police, border police, organisational units responsible for the suppression of crime and corruption and public procurement stand out as being most prone to corruption. The main forms of corruption identified are: abuse of office and unauthorised acts in return for a bribe, coercion, misuse of service vehicles, abuses in the issuing of identification cards and permits for carrying firearms, acceptance of gifts and services, trading classified information, deliberate removal/destruction of evidence, planting of evidence, theft from a crime scene, charging for free services, corruption in the context of promotion procedures and the assignment of tasks, abuses in the context of internal investigations and disciplinary procedures.

Trade unions and professional organisations

124. Approximately 80% of police officers are members of the Police Syndicate, a national trade union organisation of employees of the Ministry of the Interior and of the Intelligence Agency. Despite a relatively high membership, the Police Syndicate is not involved in any capacity neither in the policy development of the Ministry of Internal Affairs, nor in the formulation of the anti-corruption strategy and measures. In GET's view, it should also be included among the stakeholders contributing to the improvement of the ethical behaviour mechanism of the Police.

Anti-corruption and integrity policy

Policy, planning and institutionalised mechanisms for implementation

125. Each year the Ministry of the Interior's Department for Internal Control, Criminal Investigation and Professional Standards (DICCIPS) adopts its Anti-Corruption Programme with a corresponding Action Plan. The 2018 Programme prioritises: 1) the establishment of a career system for ministry employees; 2) strengthening integrity; 3) adherence to the Code of Police Ethics; 4) strengthening inter-institutional co-operation; 5) the application of anti-corruption legislation; 6) accountability and transparency in tackling corruption; 7) professionalisation and *depolitisation*; 8) continuous and specialised training; 9) corruption risk assessment; 10) enhanced control and oversight of public procurement; 11) strengthening public trust and motivating the reporting of corruption; and 12) strengthened international co-operation in the fight against corruption. Heads of organisational units are to submit to the DICCIPS quarterly reports on implemented and planned activities, while the DICCIPS is to monitor the Programme's overall execution. As explained by the authorities, there are no substantial differences between consecutive anti-corruption programmes, given the long-term goals pursued. Nonetheless, certain annual priorities may be set. The process for monitoring the programme and the action plan is considered cumbersome but all obstacles encountered are said to be duly reflected in the organisational units' reports.

126. In February 2018, the DICCIPS also adopted a Programme for Strengthening the Integrity of Police Officers in the Ministry of the Interior. This three-page document defines the concept of "integrity", provides examples of corruption within the police, enumerates key values for police integrity, explains the normative framework and prepares the ground for the adoption of the corresponding Action Plan and Curriculum for 2018 to be implemented by the DICCIPS's newly established Prevention and Integrity Unit. The authorities state that the implementation of the programme started in 2018.

127. The GET is disappointed that the impact of these ambitious annual anti-corruption programmes has not been assessed and that during its interviews with the DICCIPS and the PSB it could not form a holistic picture of past and on-going reforms and of relative weaknesses and strengths of the corruption prevention and integrity framework. The anti-corruption measures adopted appear disparate, unsustainable and lacking the desired cumulative effect. Throughout the public sector (cf. previous chapter and also below), corruption risk assessment is at a nascent stage and assumptions as to the risks have only been based on the number of complaints received by the DICCIPS.

128. Above all, the absence of linkages between the 2018 Anti-Corruption Programme and the 2016-2019 State Programme for Repression of Corruption and Reduction of Conflicts of Interest (cf. previous chapter) is disconcerting as is also the multitude of internal policy documents: instead of deepening the integrity dimension of the 2018 anti-corruption programme, preference has been given to drawing up a separate programme (and action plan) targeting the police officers who in any event constitute some 80% of the Ministry of the Interior's employees. The GET is of the firm view that such a diverse set of policy documents is not suited to corruption prevention and integrity efforts within the police. To be effective, the policy should be in line with and integrated into the country's strategic anti-corruption planning, apply the same methodology, respond to identified risks, have a clear but adaptable thematic or sectorial focus, set out enforceable and targeted mitigating and control measures (e.g. continuous vetting, rotation and mobility) and be subject to regular evaluation review and impact assessment. Such a structured approach is yet to be established in the PSB and the Ministry. For this reason, **GRECO recommends adopting focused, results-oriented and consolidated corruption prevention and integrity policies for the police, fully integrated into the national anti-corruption planning process, based on systematic and comprehensive review of risk prone areas, accompanied by targeted mitigating and control measures which are subject to regular evaluation and impact assessment.**

Risk management measures for corruption prone areas

129. Along with other ministries (cf. previous chapter), the Ministry of the Interior has referred to a system for risk assessment and management, including the preparation of a Risks Register and related Action Plan. These documents would analyse operational, strategic, organisational, financial and other risks faced by organisational units, but not yet corruption risks. According to the Ministry's 2018 Anti-Corruption Programme, the system of risk assessment and management "needs to be upgraded with separate risk assessment methodologies in order to ensure a more successful implementation" and categories of posts with a high corruption exposure need to be identified. The heads of organisational units are to assess risks of corruption for each post within their competence. At the time of the visit, such an assessment had not been carried out.

130. The GET appreciates the openness of the national authorities highlighting police units vulnerable to corruption and identifying typical corruption behaviour forms. However, it was not possible to establish on-site that any thorough analysis to identify systemic gaps or corruption vulnerabilities within the police was done in order to support these statements or that any proactive steps to respond to public concerns about the allegedly high prevalence of corruption were taken, besides reflecting on individual cases exposed in the media. Neither were detected the efforts to establish specialised units and accumulate expertise in this area. The corruption risk management needs to be institutionalised, regulated and embedded in practice in the police in order to identify the emerging risks on an adequate level. Therefore, **GRECO recommends establishing a pertinent mechanism within the police in order to manage risks of corruption.**

Ethical standards and Code of Ethics

131. Upon entering the service, police officers are to sign a statement in which they pledge *inter alia* to respect the Constitution, laws and the standards of the police⁸⁷. The statement is kept in their personnel file. Specific ethical principles and standards of conduct are laid out in the LOP, the LIA, the Collective Agreement, the Rulebook on the performance of police affairs, the Code of Police Ethics, the Rulebook on matters that conflict with internal affairs, the Rulebook on the conduct and interactions of police officers and the Rulebook on the conduct and interactions of employees with special duties and authorisations in the Ministry of the Interior. Their texts are available on the Ministry's website. Pursuant to Article 10 LIA, while performing their duties and tasks, police officers shall maintain high standards of personal integrity, professional ethics and protect the public interest and abide by the acts regulating these standards.

132. All police officers are bound by the 2007 Code of Police Ethics which contains sections on: goals of the police; the legal framework governing the police function; police and criminal judicial bodies; organisation of the police; qualification, selection and employment; training; rights of police officers; police intervention; liability and supervision; and research and international co-operation. Article 20 of the Code stipulates that officers shall respect and promote the police culture, in accordance with the standards of conduct stipulated in the laws and regulations.

133. The GET finds that the Code of Police Ethics does not meet some basic prerequisites. It mirrors the provisions of the LOP but fails to offer practical guidance to individual police officers on expected ethical conduct. Certain aspects need to be elaborated further (e.g. the requirement "to act decently" when performing police affairs), while others which should be regulated elsewhere rather than by a code of ethics ought to be removed (i.e. on keeping of weapons, alert and stand-by, fire protection, health, etc.). The GET is particularly concerned that the issue of conflicts of interest has not been included in the code. That is an important lacuna. Other standard issues, such as gifts and ancillary employment, are also missing but are addressed – to some extent – in other texts (laws and rulebooks). It follows that the Code of Police Ethics needs to be considerably re-worked.

134. As for the rulebooks, their content needs to be streamlined and to a large degree preferably be transferred into a revised code of ethics. Some issues need to be further developed, for example in the regulation of gifts. The Rulebooks on the conduct and interactions of police officers and of employees with special duties and authorisations in the Ministry of the Interior only ban the acceptance of tangible gifts and other tangible benefits in the exercise of police affairs, and make no reference to benefits received in other forms, e.g. intangible benefits⁸⁸, which are prevalent in the police force (cf. the context chapter).

135. Furthermore, it was unclear to the GET how the current code of ethics had been adopted and it insists that a new (revised) code should be elaborated via an inclusive process involving all police staff and other relevant stakeholders, including trade unions and civil society and that when it is introduced, training should be provided and a dedicated guidance and counselling mechanism made available. The code should be enforceable, and sanctions should be provided for in case of breaches of the code. The GET repeats that respect of the code is one of the priority goals in the 2018 Anti-Corruption Programme. **GRECO recommends (i) revising the Code of Police Ethics in broad consultation with a wide circle of stakeholders including police staff at all levels, their representatives and civil society, with a view to consolidate the existing provisions and offer comprehensive practical guidance on ethical matters *inter alia* on integrity, conflicts of interest, gifts and corruption prevention; and (ii) systematically raising the awareness of the police in respect of the standards contained in a revised/new Code via training, dedicated guidance and counselling, including confidential counselling.** Such an instrument needs to be a "living" document, i.e. to be updated whenever necessary, following regular evaluation of the effects and impact of the Code.

⁸⁷ Article 100 LOP

⁸⁸ Articles 4 and 6 respectively

Handling undercover operations and contacts with informants and witnesses

136. Undercover operations are regulated by Articles 252 and 253 of the Criminal Procedure Code and require a prosecutor's consent. Contacts with informants are governed by the October 2013 Rulebook and fall within the ambit of designated units in the Department for the Suppression of Organised and Serious Crime and in each Internal Affairs Sectors. Witness protection programmes are governed by the Law on Witness Protection and pertinent regulations. For a "change of identity", a decision by the Council for Witness Protection is necessary, other protection measures are implemented by the dedicated Witness Protection Unit.

Advice, training and awareness

137. Pursuant to the Rulebooks on the conduct and interactions of police officers and of employees with special duties and authorisations in the Ministry of the Interior, the police receive on-going training in general and vocational skills, expertise and psycho-physical fitness. Training is provided centrally, at the Ministry's Training Centre, and by trainers from the respective organisational units, in accordance with annual plans for all of the Ministry's employees and individual professional development plans. The training is meant for: 1) persons employed for the first time (apprenticeship training, followed by an apprenticeship exam); 2) persons selected as candidate police officers following an entry-level recruitment procedure (one-year "basic training" for police officers); 3) employees, to enable autonomous performance of duties on certain posts (followed by a special exam); and 4) continuous training of police officers and employees⁸⁹. The basic training of police officers covers the topics of police integrity and professional attitude (7 hours) and police ethics (8 hours).

138. In the framework of a Council of Europe project implemented in 2013-2015 1 825 police officers were trained on police integrity, professional attitudes and ethics, and three training manuals were published: "Ethical behaviour and respect for human rights in police actions", "Deprivation of liberty, detention and use of coercion" and "Detaining a person and preventing inappropriate treatment".

Recruitment, career and conditions of service

Recruitment requirements, appointment procedure

139. Recruitment requirements are laid down in Articles 95 LOP and 66 LIA and include *inter alia* a security clearance and psychological and health checks (by a designated Health Commission). Specific recruitment requirements are defined in "The Act on the Systematisation of Posts in the Ministry, the PSB and the Administration for Security and Counterintelligence". The recruitment procedure is defined by the LIA and includes a written test and an interview. The Selection Commission established by the Minister of the Interior, consisting of a chairperson, at least four members, a secretary and their deputies, is in charge of the process.

140. As a rule, entry-level vacancies are to be publicly announced. However, in exceptional cases, employment contracts for the positions of "authorised persons" (i.e. police officers and employees governed by the LIA) may be concluded without a public vacancy notice, if both the senior management and the person concerned agree⁹⁰ and the latter meets the general and specific conditions established for the position in question. Such positions are open for recipients of Ministry scholarships, employees of other state administration bodies, other state authority bodies, institutions, local self-government institutions and the administration of the City of Skopje. In 2017, 94,36% of the PSB's staff were employed through public announcement, 5,16% were employed

⁸⁹ Articles 81 and 90 LIA

⁹⁰ Article 76(1-2) LIA

without public announcement for the positions of “authorised officers” and 0,46% transferred from other institutions.

141. The GET learned that the modalities for entering the service are perceived as a weak spot in the efforts to curb corruption within the police force. Dedicated entry integrity tests are not conducted. Proactive background checks are not conducted for security clearance, and even though open competition is provided for by law, the initial selection is widely believed to depend on political and personal affiliations, rather than objective criteria which undermines the legitimacy of open recruitment campaigns. Also some 5% of the police force is recruited directly, pursuant to an agreement between the senior management and the person concerned. Such appointments – which may be justified in exceptional cases by specific operational and other needs – are believed to be agreed privately, give rise to suspicions of unmerited and arbitrary appointments, as well as politicisation, arbitrary decision-making and favouritism. In this context, **GRECO recommends (i) ensuring that recruitment to the police, including direct recruitment and transfer from other institutions, is competitive and based on objective and transparent criteria and procedure; and (ii) introducing integrity checks and testing of persons entering the police.**

142. The PSB Head is appointed by the Government on the proposal of the Minister for a four year term. Pursuant to an internal vacancy notice, the Heads of Internal Affairs Sectors and of Regional Centres for Border Affairs, who are subordinated to the PSB Head, are appointed by the Minister from the Ministry’s employees. Commanders of general police stations are selected by a majority vote of the total number of counsellors of the municipal council where the station is located from a list of at least three candidates proposed by the Minister, of which at least one is to represent the community which is in the majority in the municipality in question⁹¹. Pursuant to an internal vacancy notice, commanders of police stations responsible for border affairs are appointed by the Minister on a proposal from the PSB Head.

143. Candidates for recruitment as the PSB Head are required to have a university diploma and a minimum professional experience of five years⁹². In comparison, his/her subordinates - direct or indirect - occupying managerial posts are subject to substantially higher professional requirements in terms of education, work and managerial experience⁹³. The GET is convinced that even though the PSB Head is a “functionary” (or “elected/appointed official”, cf. previous chapter) and can be considered a political appointee the overall ambition of de-politicisation of the police would require and the reputation of the police as a professional service to citizens boosted if this situation is changed. Consequently, **GRECO recommends to establish objective and professional criteria for the appointment of the Head of the Police (Public Security Bureau), which correspond to the needs of such a position.**

144. Pursuant to the LIA, all of the Ministry’s posts, including those in the PSB, are broken down by category (from B to H) and levels (between four and seven). Persons in those categories are employed on indefinite contracts. In the PSB, out of 14,959 posts provided by the budget, only 10,184 (68%) are currently filled, the remaining 18,92% of posts are vacant. Out of 8,692 posts in Internal Affairs Sectors, only 6,932 (79,7%) posts are filled, the remaining 20,3% of posts are vacant. Out of 2,607 posts in Regional Centres for Border Affairs, only 1,653 posts are filled, the remaining 37% are vacant. The PSB’s employment statistics disaggregated by category and gender are provided below:

⁹¹ Article 24 LOP

⁹² Article 16 LOP

⁹³ The Heads of Internal Affairs Sectors need to have an *appropriate* university degree and at least six years of working experience *in the police*, out of which four years *in a managerial post*. The Heads of Regional Centres for Border Affairs are to have a university degree and at least ten years of working experience *in the police*, out of which four years *in a managerial post*. The commanders of police stations with general competence are to have an *appropriate* university degree and at least six years of working experience *in the police*. Recruitment criteria are prescribed by Articles 22, 24 and 26 LOP as well as by the LIA.

Category	Filled work places in the PSB Male	Filled work places in the PSB Female
Category B	139	20
Category C	397	37
Category D	19	17
Category E	401	132
Category F	1492	300
Category G	1150	98
Category H	4269	545
Total	7867	1149

Performance evaluation, promotion and transfer

145. All police officers undergo annual evaluation of their performance by the head of organisational unit in accordance with the criteria fixed in Article 134 LIA⁹⁴. The evaluation grade is composed of the grades given by the head of unit (65%) and two other unit employees (35%). Officers who obtain the highest ranking (not more than 5% of all of the Ministry's employees) are to be awarded a bonus equivalent to one basic salary, and the salary of those with the lowest (2%) ranking is to be reduced by 15% of the basic salary for the next six months. Two consecutive "unsatisfactory" evaluations or at least three such evaluations within a five-year period trigger dismissal. Evaluation results can be challenged before the Ministry's Review Commission⁹⁵.

146. Promotion is regulated by the LIA and the Rulebook on the procedure for careers of authorised persons in the Ministry of the Interior and on how selection is conducted upon deployment. Vacancies at a higher grade are advertised via internal vacancy notices, except posts which are included in the list agreed upon between the Minister and the Union⁹⁶. Professional and personal qualifications of the officer concerned, his/her competences, the number of completed trainings and the carrying out of duties are to be taken into account.

147. The procedure for the transfer of a police officer to another job is carried out through an internal competition (except where a transfer is to meet the Ministry's needs⁹⁷ or is made at the request of an employee⁹⁸), and is conditional on the criteria of Article 107 LIA being met. On the other hand, transfer to certain positions is carried out on the basis of order of the Minister of a manager to perform temporarily (up to 30 days) urgent and specific tasks or made at the request of an employee who fulfils the conditions for the post envisaged in laws/regulations.

148. Proposals for promotion and transfer are made by special commissions established by the Minister⁹⁹, composed of a chairperson, four members and their deputies, with one member/deputy representing the Union and the organisational unit where the vacancy has been announced respectively. The commission may conduct interviews and psychological tests, assess candidates' expertise, etc. It is to take into account the candidates' grade (i.e. seniority), the nature of tasks performed, career development, training completed, work experience, etc. Decisions are made by the Minister and can be appealed via the Ministry¹⁰⁰ to the State Commission for Administrative and

⁹⁴ Those criteria include: professionalism, work load, timeliness, independence, creativity, accuracy, confidentiality, co-operation, organisation of the work, inter-disciplinarity, attitude towards clients, communication, other work-related skills.

⁹⁵ The Commission is established by the Minister and composed of a president, two members and deputies, of which one member/deputy is to represent the Union.

⁹⁶ Article 53 (3) and 36(4) of the Collective Agreement

⁹⁷ In such cases, employees are transferred to posts of the same category, rank and salary level.

⁹⁸ Article 106 LIA

⁹⁹ Article 128 LIA

¹⁰⁰ This means that the Ministry is to give an opinion concerning the complaint, which is submitted to the Committee

Labour Relations Procedure Decisions. Between September 2018 and February 2019, 956 promotions and transfers had taken place (of which 596 were assignments of new police officers, 90 promotions and 270 transfers at the same hierarchical level).

149. Annual performance reviews and promotion practices attracted criticism on site for their alleged partiality, partisanship and flawed criteria and procedures. Even though police officers and employees are to “maintain high standards of personal integrity, professional ethics and care for the protection of the public interest and to comply with the acts stipulating those standards”¹⁰¹, compliance with the Code of Police Ethics or pertinent rulebooks is not assessed and the criteria established for annual performance reviews omit the integrity dimension. The GET was told that any concerns regarding individual conduct only arise in the context of complaints filed with the DICCIPS. Also, information from annual performance reviews is not used for substantiating decisions on the promotion of police officers and employees.

150. As for promotion procedures, the professional requirements for individual posts below the level of heads of Internal Affairs Sectors and commanders of police stations are either unregulated¹⁰² or said to be imprecise, open to competing interpretations or disrespected in practice. Therefore, cases allegedly abound where persons lacking the necessary competences are promoted to a higher rank due to political or personal allegiances. The existing deficiencies are acknowledged to a certain degree by the 2018 Anti-Corruption Programme, which emphasises the need for the annual performance reviews to become objective and professional and to serve as a tool for substantiating promotion decisions and for the promotion system to become transparent and based on merit, honesty and good conduct. In view of the foregoing, **GRECO recommends (i) to introduce objective and transparent criteria and procedures for periodical reviews of the integrity of police staff; and (ii) to use the results of such reviews in the promotion procedures.**

Termination of service and dismissal from office

151. Termination of service and dismissal from office are regulated by Articles 169-174 LIA. Employment contracts are to be terminated on meeting the retirement criteria or on completion of 40 years of service, regardless of age. Employment contracts are to be “cancelled” *inter alia* as the result of a disciplinary procedure, unsatisfactory performance reviews (see above), concealment or falsification of personal data on recruitment, a ban to practice a profession/perform duties for more than six months imposed by court and failure to pass twice the apprenticeship exam. The LIA rules are further clarified in the Collective Agreement.

Rotation and mobility policy

152. The existing regulations do not provide for the regular rotation or mobility of police officers. The recommendation in paragraph 128 invites the authorities to carry out a systematic and comprehensive review of sectors, services and posts exposed to corruption and to put in place mitigating and control measures aimed at boosting integrity and preventing corruption in the police. Those measures might include, as appropriate, regular rotation and mobility.

Salaries and benefits

153. The salary of police officers and employees consists of basic and “exceptional” components. The basic component is sub-divided into a basic salary, 20% bonus for certain types of work/working conditions (30% for authorised official persons) and a career allowance (up to 5% of the basic salary).

¹⁰¹ Article 10 LIA

¹⁰² The GET notes the absence of specific criteria for the selection of candidates to the posts of commanders police stations responsible for border affairs.

The exceptional component is sub-divided into an allowance for successful work (proportionate to the duties performed), a working allowance (e.g. for night shifts, work on official holidays and in special and life-threatening conditions) and an extraordinary working allowance (overtime)¹⁰³.

154. The gross annual salary of police officers with a high-school diploma at the beginning of their career is 423 804,00 MKD/ 6 885€ and of those with a university degree 524 892,00 MKD/ 8 527€. The highest gross annual salary of a police officer in 2018 was 1 725 051,00 MKD / 28 040€. Whenever a police officer is relocated for the needs of service, s/he is eligible for a relocation allowance and travel, accommodation and rental expenses.

Conflicts of interest

155. In the PSB only its Head falls within the ambit of the Law on Prevention of Conflicts of Interest, which is thoroughly analysed in the previous chapter, and the recommendations formulated by GRECO in that chapter apply also in his/her regard.

156. With respect to other police staff, prevention of conflicts of interest is one of the principles included in the LIA¹⁰⁴. It stipulates that police officers and employees may not put their personal material and non-material interests in conflict with the public interest and their status if, according to the law, this may cause a conflict of interests. They are to perform their duties impartially and without any influence, not be guided by personal financial interests nor abuse their authorisations and status, and protect the Ministry's reputation¹⁰⁵. The Law on the Prevention of Corruption and Conflict of Interests (LPCCOI, cf. the previous chapter) is applicable as well in so far as it imposes prohibitions on incompatible ancillary activities, obtaining shares, influencing the employment of close relatives and accepting gifts. Finally, certain aspects of conflicts of interest (primarily, incompatibilities and the receipt of prizes and benefits) are covered by the Rulebooks on activities that conflict with internal affairs, on the conduct and interactions of police officers and on the conduct and interactions of employees with special duties and authorisations in the Ministry of the Interior as well as the Criminal Procedure Code.

157. The lack of recognition of the existence of conflicts of interest in the police and the concomitant absence of detailed practical guidance for police staff are addressed by the recommendation in paragraph 135, which calls on the authorities to revise the Code of Police Ethics.

Prohibition or restriction of certain activities

Incompatibilities and outside activities

158. Police officers may perform secondary activities which are not in conflict with police tasks with the prior consent of the Minister based on a proposal by a special commission, which includes amongst its five members a DICCIPS representative¹⁰⁶. Such activities are to be performed outside of working hours and in a manner that does not impinge on the lawful and proper execution of police tasks, which is to be affirmed in a statement signed by the officer concerned.

159. The Rulebook on activities that conflict with police affairs clarifies that police officers may not work for an international organisation, foreign state body, or insurance company, provide an expert opinion on police affairs, work to assure the security of persons and property, as a detective or manager in a legal entity, carry out activities involving the handling of weapons and explosives, provide

¹⁰³ Article 141 LIA

¹⁰⁴ Article 13 LIA

¹⁰⁵ Article 152 (2) LIA

¹⁰⁶ Pursuant to Articles 104 LOP and 167 LIA

training in driving motor vehicles, participate in music performances in the catering sector, participate in the management body of a non-governmental organisation, association or foundation¹⁰⁷. Additionally, any activity which would damage the reputation of the Ministry or is directly related to the workplace or similar to it and which would affect the lawful and proper execution of police tasks is prohibited. Once per year the aforementioned commission is to audit all applications submitted and if some of the previously approved activities are found to be affecting the lawful and proper execution of police tasks, the commission is to propose to the Minister to revoke the consent given previously¹⁰⁸.

Gifts

160. Pursuant to the previously mentioned Rulebooks on the conduct and interactions of police officers and of employees with special duties and authorisations in the Ministry of the Interior, in the exercise of their duties, police staff may not receive gifts or other tangible benefits from any person¹⁰⁹. The absence of rules on accepting services and other intangible benefits as gifts is dealt with under the section on the code of ethics and addressed by a recommendation.

Misuse of public resources

161. The principle of economic, reasonable and efficient use of material assets, equipment and other means of work is stipulated in Article 14 LIA. Furthermore, pursuant to Article 74 of the Rulebook on the conduct and interactions of employees with special duties and authorisations in the Ministry of the Interior, the police staff is to take care of the Ministry's property in a conscientious and responsible manner and not allow it to be damaged, destroyed or abused.

Confidential information and third party contacts

162. Police officers are to keep secret personal and confidential information acquired in the course of their duties¹¹⁰. This obligation applies even after the working relationship with the Ministry has terminated.

163. The handling of contacts with third parties is to be based on the Criminal Procedure Code, the LIA, the LOP, the Law on Protection of Personal Data, the Law on International Co-operation in Criminal Matters, the Law on the Protection of Witnesses, the Law on the Protection of Whistle-blowers, the Rulebook for performing police affairs, the Rulebook for the Safety of Classified Information, the Standard Operating Procedures for Collecting and Handling Information and for the Exchange and Collection of Targeted Information in Conducting Criminal Investigations between the Organisational Units within the PSB as well as the Guidelines for Assessing Police Information Collected for Criminal Intelligence Purposes.

Post-employment restrictions

164. There are no post-employment restrictions applicable to police officers and the GET was not informed of any issues resulting from the lack of restrictions in this respect. The GET perceived necessity to ensure that monitoring of post-retirement jobs of police staff be conducted. Improper moves to the private sector could generate situations of conflicts of interest, e.g. in a possible scenario when post-retirement employment is conferred in exchange for an official act/omission to act. Furthermore, there are more risks inherent in post-employment that need to be addressed, such as

¹⁰⁷ This obligation is reiterated in Article 4 of the Rules on the conduct and interactions of the employees with special duties and authorisations in the Ministry of the Interior.

¹⁰⁸ Article 7 of the Guidelines on the manner of work of the Commission that gives a proposal for performing certain activities, independent or additional commercial or professional activity that is not in conflict with internal, i.e. police affairs

¹⁰⁹ Articles 4 and 6 respectively

¹¹⁰ Articles 114 LOP and 155 LIA.

misuse of specific information or access gained while in service or corrupt behaviour in the hope or expectation of future employment. Also there is a need to prevent the police staff taking improper advantage of public office with a view to obtain the opportunity of employment outside the public service¹¹¹. However, the current situation in this respect is not clear. Therefore, **GRECO recommends that a study be conducted on the practice of post-employment activities of police employees and that, in the light of the results, a regulatory framework be adopted in order to limit risks of conflicts of interest, if necessary.**

Declaration of assets, income, liabilities and interests

165. The GET learned that following the recent adoption of LPCCOI, the previous far reaching obligation upon police officers to declare assets and interests was abolished. Currently, only category A officials are to submit such declarations. The authorities submitted that this obligation only applies to the Secretary of State in the Ministry of the Interior. The GET understood that the old rules had been abolished as they were too broad and cumbersome. However, it was concerned that only one person were to submit such declarations under the new law. It would appear appropriate to at least introduce such declarations in respect of positions that are vulnerable to conflicts of interest and corruption. Considering that the current legislation is new, the GET takes the view that this matter requires further reflection. **GRECO recommends that the authorities analyse the need for introducing an obligation to declare assets/interests in respect of the top management and/or concerning certain positions within the police, with a view to introducing such rules.**

Oversight mechanisms

Internal control

166. The internal control within the police is, first and foremost, the responsibility of the immediate superior of the officer/employee concerned¹¹². Additionally, the Department for Internal Control, Criminal Investigation and Professional Standards (DICCIPS) examines the legality and efficient performance of tasks and duties by the PSB organisational units and is to detect and document unlawful behaviour and unprofessional conduct.

167. The DICCIPS is separate from the PSB and subordinated directly to the Minister of the Interior. It is composed of three sectors: the Sector for Criminal Operations, the Sector for Professional Standards, Integrity and Prevention and the Sector for Internal Control and Professional Standards for the city of Skopje. There is also an independent Unit for Analysis, Administration and Documentation. The DICCIPS acts on internal and external complaints, on the Minister's instruction as well as *ex officio*. If in the course of its activities, the DICCIPS identifies an offence, it is to act in accordance with the Criminal Procedure Code and to transfer the case to a prosecutor. Its annual, semi-annual and quarterly reports are available on the Ministry's website.

168. Onsite interviews indicated that the role of the DICCIPs in upholding internal integrity policies within the police has been marginal and that weaknesses inherent in the system of internal control in the Ministry of the Interior are largely comparable to those described in the previous chapter. The GET was informed about undue political influence being exerted on the decision-making processes within the DICCIPS and heard complaints about its insufficient resources (30% of its posts are currently vacant¹¹³), limited powers (i.e. no mandate to conduct investigations) and the lack of expertise and tools. In the view of the GET, the entire system of internal oversight within the Ministry/PSB calls for reinforcement of its capacity to promote integrity, prevent corruption and to proactively investigate

¹¹¹ Article 26, R(2000) 10 on codes of conduct for public officials contains specific guidelines for leaving the public service.

¹¹² By virtue of the Rules on the conduct and relations of employees with special duties and authorisations of the Ministry of the Interior

¹¹³ The DICCIPS has staff of 44 employees, 38 of which are police officers (whereas its budget provides for 67 employees, including 59 police officers).

violations, as opposed to only reacting to complaints received as is the case at present. In view of the foregoing, **GRECO recommends securing the autonomy and independence from undue influence of the internal control mechanism of the police and providing it with an appropriate mandate, resources and expertise.**

External supervision

169. External oversight is performed by the Assembly, the Ombudsman¹¹⁴ and the Public Prosecutor. On-site interviews revealed that none of those bodies exercise this function effectively. Parliamentary oversight can be seen as a failure as no real investigations have been carried out into alleged cases of police brutality and the European Court of Human Rights has ruled against the country in several cases under Article 3, 5 and 6 of the European Convention of Human Rights. Aside from allegations of passivity on the part of the relevant parliamentary committees, the GET was also told of cases where the Ministry has delayed issuing security certificates to parliamentary committee members, thus preventing the performance of their oversight function. Similarly, representatives of the Ombudsman Office met by the GET referred to various obstructions encountered in fulfilling their mandate and complained about a lack of co-operation on the part of the DICCIPs and the Public Prosecutor's Office. And as for the Public Prosecutor, the GET is only aware of the fact that its Department for Investigation and Prosecution of Criminal Acts Committed by Persons with Police Authorisations within the Office for Prosecution of Organised Crime and Corruption is competent to investigate corruption offences by police officers.

170. The GET was informed after the visit that a new special department has been established within the Public Prosecutor's Office for Organised Crime and Corruption to investigate and prosecute all offences by police officers. It became operational on 1 December 2018. The competences in this respect were entirely withdrawn from the Ministry of the Interior. Also, a new Department for supervision of the police has been established in the Ombudsman Office. Concerned by the magnitude of allegations of politicisation, arbitrary decision-making, favouritism and impunity within the police, the GET supports the reform in the expectation of tangible results in terms of police accountability not only in law but also in practice. Accordingly, **GRECO recommends that the available mechanisms of external supervision of the police force, including those of Parliament, the Ombudsman Office and the Public Prosecutor's Office be subject to an appropriate level of transparency in respect of cases dealt with and that related statistics be provided at regular intervals.**

¹¹⁴ Articles 59 and 64 LIA

Reporting obligations and whistle-blower protection

171. Police officers are to oppose corruption within their ranks and to report it to their superiors and other competent bodies¹¹⁵. Failure to report corruption within one's own unit is to be notified to the prosecutor by the DICCIPS. Moreover, police officers and employees are to warn peers who contravene the rules, and, if misconduct persists, to notify the peer's superior¹¹⁶.

172. Protected disclosures in the public (and the private) sector, the rights of whistle-blowers, and the procedures and duties of institutions pertaining to protected disclosures are regulated by the 2016 Law on the Protection of Whistle-blowers, which was amended in 2018, as well as by the Rulebook for protected internal disclosure in the institutions of the public sector, the Rulebook for protected external disclosure and the Manual for the Protection of Whistle-blowers. In 2016, the Ministry of the Interior adopted its own Instruction on dealing with protected internal disclosures. In 2016, the SCPC organised training on "New methods of protecting whistle-blowers, informants, collaborators and undercover agents" for some police officers, judges and prosecutors. A Strategy for the promotion of the whistle-blower protection system is being prepared with the participation of various stakeholders and the international community.

173. During the visit, the GET did not hear any complaints about the material or procedural aspects of the whistle-blower legislation. However, with regard to its practical implementation, the GET is only aware of the appointment of a person responsible within the DICCIPS to deal with protected internal disclosures - an obligation imposed on all public sector institutions. More than two years after the entry into force of the law, no information on the number of internal disclosures in the PSB is available, even though the responsible person is to submit biannual reports on all such disclosures received to the SCPC. The impression persists that the law is not yet being implemented. Some interlocutors explained that the underlying reasons are multiple and include *inter alia* the corporatist police culture, partisanship, a lack of confidence in the impartiality and capacity of the responsible unit to respond adequately to disclosures, fear of reprisal and insufficient comprehension of and trust in the protection mechanism. In these circumstances, **GRECO recommends strengthening substantially the measures for the practical implementation of the Law on the Protection of Whistle-blowers within the police, and making related information accessible to the public.**

Remedy procedure for the general public

Administrative complaint procedure

174. Citizens' complaints about police misconduct can be submitted electronically, by post, telephone (toll-free number 199) or orally to the DICCIPS or at every police station. In the latter case, complaints are to be forwarded to the DICCIPS within 24 hours. Complaints submitted by phone are to be handled in accordance with the guidelines for police officers on dealing with telephone notifications of corrupt or other illegal behaviour. The DICCIPS is to act on all complaints submitted. Anonymous complaints are processed only if they contain verifiable data. A response on the follow-up given to each complaint is to be sent to the complainant within the legally prescribed deadline of 30 days¹¹⁷. Complaints for which the DICCIPS has no competence are to be transferred to another unit within the Ministry or outside. In these cases, the DICCIPS is to inform the complainant which body is competent to process the complaint and that a response will be received. Dissatisfied complainants can approach the Ombudsman Office, the Public Prosecutor's Office or the SCPC.

¹¹⁵ Article 47 of the Code of Police Ethics

¹¹⁶ The Rulebooks on the conduct and interactions of police officers and of employees with special duties and authorisations in the Ministry of the Interior

¹¹⁷ Article 8 LOP and 58 LIA

175. In 2014, the SCPC implemented a project jointly with the OSCE Office in Skopje aimed at encouraging citizens to report illegal and unprofessional police conduct and to use the opportunities for reporting presented on a specially designed flyer. The GET was told that the results of this project was difficult to measure since citizens, in their complaints, did not mention how they had been informed of the possibilities to report police misconduct and there was no statistics available on number of complaints received. The GET also takes note of the fact that many complaints against the police are sent to non-governmental organisations which are perceived as being more trustworthy and capable of reacting more rapidly and effectively to reported breaches. As already noted in par. 122, access to police information on its activities would enhance public trust in the force. Informing the public on complaints and how they were handled by the supervisory bodies would bring even more transparency. Therefore, **GRECO recommends that complaints against police staff be reflected in comprehensive statistics, covering disciplinary and criminal proceedings, and made publicly available.**

Enforcement and sanctions

Disciplinary procedure

176. Disciplinary measures apply to police officers and employees for violation of the work order and discipline and failure to fulfil work obligations¹¹⁸. A distinction is made between minor and more serious violations¹¹⁹. Sanctions consist of: a written warning; a fine not exceeding 15% of the last monthly net salary for a period of one to six months; demotion; and dismissal¹²⁰.

177. Disciplinary decisions are taken by the Minister and the procedure is conducted by a Disciplinary Commission established by him/her which is composed of a chairperson, two members and their deputies. Disciplinary measures are to be taken within six months from the reporting of a violation and not later than twelve months after it was committed. In case of disagreement with the Commission's proposal, the Minister has the right to return the case to the Commission for re-consideration or to impose another disciplinary measure. Disciplinary decisions can be appealed via the Ministry which is to send the entire file with all the evidence to the State Commission for Decision-making in Administrative Procedure and Labour Relations. Committing a criminal offence does not exclude disciplinary action.

178. In the PSB, 397 disciplinary procedures were initiated against police officers and employees in 2016 and 526 in 2017. Disciplinary measures imposed in 2017 were: dismissal (in 28 cases), demotion (in 19 cases), a fine (in 249 cases), a written notice (in 71 cases) and the procedure was terminated in 159 cases (e.g. when liability of the police officer was not proved, the statute of limitation expired or the employment was terminated). Information on disciplinary procedures and sanctions is made systematically available to the public.

Administrative and criminal proceedings

179. Police officers and employees do not enjoy immunity and special criminal procedures do not apply. According to the Criminal Procedure Code, at present, criminal proceedings against them can be initiated by the DICCIPS and investigations conducted by the PSB's Department for Suppression of Organised and Serious Crime and the Criminal Police Departments of the Sectors for Internal Affairs. Criminal proceedings were initiated by the DICCIPS in respect of 6 suspected corrupt acts involving 8 police officers in 2013, 10 corrupt acts involving 15 police officers in 2014, 14 corrupt acts involving 23 police officers in 2015 and 6 corrupt acts involving 6 police officers in 2016. The suspected offences concerned: abuse of official position and authority, negligent work, accepting a bribe, extortion and

¹¹⁸ Article 184(1) LIA

¹¹⁹ See Articles 186 and 187 LIA

¹²⁰ Article 188 LIA

forgery of an official document. All relevant information is published daily on the Ministry's website in the form of a newsletter or press release and distributed to the media.

VI. RECOMMENDATIONS AND FOLLOW-UP

180. In view of the findings of the present report, GRECO addresses the following recommendations to North Macedonia:

Regarding central governments (top executive functions)

- i. (i) that in respect of employment of persons hired at the discretion of central government functionaries to give advice to functionaries or to perform similar functions rules on incompatibilities and vetting based on integrity criteria be introduced; and (ii) that the names and contractual benefits (salaries etc.) of those hired for these positions are made easily accessible online and, when part-time recruitment/*ad hoc* engagement is the case, that information on their main job/activities is included (paragraph 39);**
- ii. (i) to systematically carry out integrity risk assessment in central government covering all functionaries and personal advisers and external associates, as appropriate; (ii) to put in place appropriate remedial measures and to provide adequate resources to internal control units and bodies responsible for offering methodological advice in this area; and (iii) to regularly evaluate the impact and effects of integrity measures in central government (e.g. declaration of interests and assets) and to make the results public (paragraph 46);**
- iii. that the Ethical Code applicable to persons entrusted with top executive functions i) be subject to enforcement by means of a mechanism equipped with sanctioning powers; and ii) be subject to systematic awareness raising in respect of persons entrusted with top executive functions via training, dedicated guidance and counselling, including confidential counselling (paragraph 61);**
- iv. amending government rules to ensure that the names and function of all attendees of government sessions, sub-committees and working groups, including any third parties, are publicly accessible online (paragraph 68);**
- v. introducing rules governing i) the interaction of persons entrusted with top executive functions with lobbyists and third parties seeking to influence the public decision-making process; and ii) the regular disclosure of such contacts, including the subject matter(s) discussed, and the identity of the persons participating and/or represented at such meetings (paragraph 74);**
- vi. that the rules on *ad hoc* disclosure and the management of situations of conflicts of interest be complemented with practical guidance and practical measures for their implementation, such as dedicated training, counselling and awareness-raising for persons entrusted with top executive functions (paragraph 83);**
- vii. that the existing rules on the acceptance of gifts by persons entrusted with top executive functions be simplified and that advice on how to manage such situations be provided (paragraph 92);**
- viii. that the oversight in respect of declarations of interests and assets of persons entrusted with top executive functions in the government be strengthened by (i) providing the State Commission for the Prevention of Corruption (SCPC) with human and financial resources, competences, methodologies and tools that are proportionate to the proper and effective performance of its duties; (ii) establishing an appropriate verification**

mechanism and conducting investigations when necessary and (iii) making its results public, as appropriate (paragraph 104);

ix. analysing the practical application of the system of sanctions in respect of violations of conflicts of interest, integrity and anti-corruption legislation/regulation and ensuring that the sanctions are effective, proportionate and dissuasive (paragraph 107);

Regarding law enforcement agencies

x. that (i) sufficient operational independence of the police vis-à-vis the Ministry of the Interior be provided and ensured in practice, and (ii) pertinent measures be taken in order to ensure individual police officers' duty to comply with the existing rules on integrity and impartiality in order to carry out their functions in a politically neutral manner in practice (e.g. through awareness, training, sanctions etc.) (paragraph 118);

xi. increasing the transparency of the police by enhancing access to information *inter alia* by making reports on the results of its activities and decision making, police budgets, administrative proceedings, including public procurement reports, statistics, rulebooks and similar information publicly accessible, preferably on-line (paragraph 122);

xii. adopting focused, results-oriented and consolidated corruption prevention and integrity policies for the police, fully integrated into the national anti-corruption planning process, based on systematic and comprehensive review of risk prone areas, accompanied by targeted mitigating and control measures which are subject to regular evaluation and impact assessment (paragraph 128);

xiii. establishing a pertinent mechanism within the police in order to manage risks of corruption (paragraph 130);

xiv. (i) revising the Code of Police Ethics in broad consultation with a wide circle of stakeholders including police staff at all levels, their representatives and civil society, with a view to consolidate the existing provisions and offer comprehensive practical guidance on ethical matters *inter alia* on integrity, conflicts of interest, gifts and corruption prevention; and (ii) systematically raising the awareness of the police in respect of the standards contained in a revised/new Code via training, dedicated guidance and counselling, including confidential counselling (paragraph 135);

xv. (i) ensuring that recruitment to the police, including direct recruitment and transfer from other institutions, is competitive and based on objective and transparent criteria and procedure; and (ii) introducing integrity checks and testing of persons entering the police (paragraph 141);

xvi. to establish objective and professional criteria for the appointment of the Head of the Police (Public Security Bureau), which correspond to the needs of such a position (paragraph 143);

xvii. (i) to introduce objective and transparent criteria and procedures for periodical reviews of the integrity of police staff; and (ii) to use the results of such reviews in the promotion procedures (paragraph 150);

xviii. that a study be conducted on the practice of post-employment activities of police employees and that, in the light of the results, a regulatory framework be adopted in order to limit risks of conflicts of interest, if necessary (paragraph 164);

xix. that the authorities analyse the need for introducing an obligation to declare assets/interests in respect of the top management and/or concerning certain positions within the police, with a view to introducing such rules (paragraph 165);

xx. securing the autonomy and independence from undue influence of the internal control mechanism of the police and providing it with an appropriate mandate, resources and expertise (paragraph 168);

xxi. that the available mechanisms of external supervision of the police force, including those of Parliament, the Ombudsman Office and the Public Prosecutor's Office be subject to an appropriate level of transparency in respect of cases dealt with and that related statistics be provided at regular intervals (paragraph 170);

xxii. strengthening substantially the measures for the practical implementation of the Law on the Protection of Whistle-blowers within the police, and making related information accessible to the public (paragraph 173);

xxiii. that complaints against police staff be reflected in comprehensive statistics, covering disciplinary and criminal proceedings, and made publicly available (paragraph 175).

181. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of North Macedonia to submit a report on the measures taken to implement the above-mentioned recommendations by 30 September 2020. The measures will be assessed by GRECO through its specific compliance procedure.

182. GRECO invites the authorities of North Macedonia to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

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

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

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