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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

BOSNIA AND HERZEGOVINA

Adopted by GRECO at its 85th Plenary Meeting
(Strasbourg, 21-25 September 2020)

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I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Bosnia and Herzegovina to implement the pending recommendations issued in the Fourth Round Evaluation Report on Bosnia and Herzegovina (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. The Fourth Round Evaluation Report on Bosnia and Herzegovina was adopted at GRECO's 70th Plenary Meeting (30 November-4 December 2015) and made public on 22 February 2016, following authorisation by Bosnia and Herzegovina ([Greco Eval IV Rep \(2015\)2E](#)).
3. The [Compliance Report](#) was adopted by GRECO at its 79th Plenary Meeting (23 March 2018) and made public on 22 May 2018, following authorisation by Bosnia and Herzegovina ([GrecoRC4\(2017\)22](#)). As required by GRECO's Rules of Procedure, the authorities of Bosnia and Herzegovina submitted a Situation Report on further measures taken to implement the pending recommendations. This report was received on 28 October 2019 and served, together with the information submitted subsequently, as a basis for the Second Compliance Report.
4. GRECO selected Spain (with respect to parliament) and North Macedonia (with respect to judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Rafael VAILLO, on behalf of Spain and Ms Ana PAVLOVSKA DANEVA, on behalf of North Macedonia. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

II. ANALYSIS

5. It is recalled that GRECO addressed 15 recommendations to Bosnia and Herzegovina in its Evaluation Report. In the Compliance Report, GRECO concluded that recommendations i-vii, ix, xi, xii and xv had been partly implemented, and recommendations viii, x, xiii and xiv had not been implemented. Compliance with the 15 pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendation i.

6. *GRECO recommended (i) introducing precise rules defining and facilitating public consultation processes of legislation in Parliament, and assuring effective compliance thereafter; and (ii) enhancing the transparency of the parliamentary process by introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process.*
7. GRECO recalls that this recommendation was considered partly implemented according to the Compliance Report; legislative and practical measures had been taken to facilitate public consultation of legislative proposals and their subsequent discussion in Parliament, and the launching of "eKonsultacije" website was welcomed. However, the issue of lobbying – the second part of the recommendation – remained unregulated.
8. The authorities of Bosnia and Herzegovina now report that the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (hereafter "APIK") conducted a survey on MPs awareness of international obligations and anti-corruption standards among political parties represented in the Parliamentary Assembly of Bosnia and Herzegovina, on the basis of a questionnaire, prepared in co-operation

with the OSCE. The authorities also refer to conferences, seminars and workshops held in different towns of Bosnia and Herzegovina, with participation of representatives of Parliament, Entity and cantonal governments and assemblies and other institutions in the course of 2018. Some of the conclusions reached during these events include the need to establish and strengthen communication channels between cantonal commissions and anti-corruption teams to enhance transparency and support for anti-corruption processes; improve MPs knowledge in cantonal assemblies of the mandate and role of anti-corruption teams; increase awareness of corruption-prevention among members of the legislative bodies and enhance cooperation between the executive and legislative institutions. The APIK reported to the Parliamentary Assembly the results of analysis on the implementation of anti-corruption activities under First, Second and Third Monitoring Reports on the implementation of the Anti-Corruption Strategy 2015-2019 and its Action Plan.¹

9. GRECO takes note of the information provided. It would appear that no new tangible measures have been taken to achieve further progress in the implementation of either of the two parts of the present recommendation. While the first part of the recommendation was considered dealt with in a satisfactory manner in the Compliance Report, no concrete measures for the introduction of rules for parliamentarians on their interaction with third parties have been reported.
10. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

11. *GRECO recommended that internal mechanisms be further articulated to promote and enforce the Code of Conduct for parliamentarians and thereby safeguard integrity within the legislature, including by (i) providing tailored guidance, counselling and training regarding ethical, integrity and corruption prevention related provisions, as well as (ii) developing effective oversight and compliance tools on these critical matters.*
12. GRECO recalls that this recommendation was considered partly implemented in the Compliance Report. In particular, GRECO took note of the changes introduced to the Code with the purpose of reinforcing ethical standards and accountability in Parliament and looked forward to receiving concrete details on the implementation of the Code in terms of guidance, counselling and training from the monitoring reports. However, no new developments had been reported.
13. The authorities now inform GRECO that the Assembly of the Canton of Sarajevo adopted on 17 April 2019 the Law on Reporting and Procedure for Verification of Information on the Property of Public Office Holders in that canton. The provisions of this law require public office holders to act lawfully, effectively, impartially and honourably, and to adhere to the principles of responsibility, honesty, conscientiousness, openness and credibility. The law also prohibits corrupt practices and promotes transparency in the performance of public office functions and public control over their performance. Further, according to the authorities, no amendments were made to the Code of Ethics of the Assembly of the Canton of Sarajevo.
14. GRECO takes note of the information provided and regrets that the scope of this information was limited to one canton only and did not address on the substance any of the two aspects of this recommendation. In addition, no reference to monitoring reports regarding the implementation of the Code of Conduct were made by the

¹http://www.apik.ba/izvjestaji/izvjestaji-agencije/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

authorities and it remains unclear whether such reports were produced at all in 2018-2019.

15. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii.

16. *GRECO recommended harmonising the legislation on conflicts of interest throughout the national territory.*
17. It is recalled that this recommendation was partly implemented according to the Compliance Report. The preparation of a draft law on conflict of interests, aiming to address shortcomings in membership and procedures of the Commission for Deciding on Conflicts of Interest (CDCI), was welcomed. However, the draft law had not been adopted and was still subject to parliamentary consultations.
18. The authorities now refer to the adoption of the Sarajevo Canton Anti-Corruption Strategy for 2018-2019 and the Action Plan for its implementation, adopted by the Sarajevo Canton Government on 19 April 2018. Among its objectives, the Strategy aims at improving mechanisms of prevention of conflict of interests of elected and appointed officials, heads of administrative bodies, civil servants and state employees. Further, the Sarajevo Canton Anti-Corruption and Quality Control Office decided, in May 2019, to establish the Register of Appointed Officials in the Sarajevo Canton. The Decision also prescribes the modalities of entering and storing relevant data, its scope and processing and other matters related to the operation of the Register. The main purpose of establishing the Register is monitoring possible conflicts of interest among public officials in the canton and their timely prevention, enhancing integrity, objectivity, impartiality and transparency in performing public office functions in the Sarajevo Canton. According to the additional information provided by the authorities, the draft of the Law on Conflicts of Interest was included on the agenda of the third session of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, held on 16 January 2020. The House of Representatives then requested that the draft be submitted by the Council of Ministers of Bosnia and Herzegovina in the timeframe of 90 days to take into account proposals of the MPs and the opinion of the Central Election Commission.
19. GRECO takes note of the information provided, i.e. the recent submission to the Parliamentary Assembly of the draft Law on Conflict of Interest. However, this information also shows that the same draft is not yet ready for discussion/adoption by Parliament, nor has it been finally agreed by the Government, as the Council of Ministers also need to take into account further opinions from MPs and the Election Committee before the Parliamentary process can start. In this situation, GRECO cannot maintain its previous conclusion that this recommendation has been partly implemented.
20. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

21. *GRECO recommended (i) unifying the applicable requirements regarding financial disclosure in one single declaration form; (ii) introducing a duty to report the property of close relatives and to provide an update in the event of significant change in the information to be reported in the course of the legislative mandate; and (iii) ensuring the publication of and easy access to financial information, with due regard to the privacy and security of parliamentarians and their close relatives subject to a reporting obligation.*

22. GRECO recalls that this recommendation was considered partly implemented in the Compliance Report. GRECO welcomed the public accessibility of declarations on the website of the Central Election Commission, which partially satisfied the last component of this recommendation, while being limited to asset declarations, and not financial reports. It was noted that new requirements concerning regular reporting of significant changes in the financial situation, disclosure of close relatives' assets and publication of financial reports were included in the draft law on conflicts of interest, pending at the time before Parliament.
23. The authorities again refer to the adoption of the Law on Reporting and Procedure for Verification of Information on the Property of Public Office Holders in the Canton of Sarajevo (see paragraph 13 above), which obliges public officials in that canton to report their property and income, their origin and any changes in the situation, gifts received during the exercise of public office, as well as the modalities of collecting and processing related data. The Law also requires providing information on the property of close relatives and other related persons of public officials and contains as an appendix a Property Reporting Form to be used by all public officials in the Canton for submitting relevant information on income, assets and interests.²
24. GRECO takes note of the new information provided by the authorities. Once again, it refers to one canton only, partly relating to this recommendation, and has no bearing on the situation at the State level. Apart from this, no tangible progress has been achieved in the implementation of this recommendation since the adoption of the Compliance Report.
25. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

26. *GRECO recommended (i) coupling the disclosure system with an effective control mechanism (including random verifications) and (ii) introducing appropriate sanctions for false reporting.*
27. It is recalled that this recommendation was considered partly implemented in the Compliance Report; reference was made to the draft Law on Conflict of Interests, which envisaged strengthening oversight mechanisms and introducing administrative sanctions for false reporting; the draft was, however, at parliamentary consultation stage. GRECO also noted that changes would need to be introduced in electoral law and it would be necessary to ensure effective implementation in practice.
28. The authorities once again refer to the Law on Reporting and Procedure for Verification of Information on the Property of Public Office Holders in the Canton of Sarajevo, and the Regulation on establishment of the Property Register of the property of public officials this Canton. Reference is also made to the provisions of this law, envisaging penalties for providing false information.
29. GRECO notes that no new developments at the State or Entity level were reported by the authorities. The information provided is limited to one canton and is insufficient for re-evaluating the level of implementation of this recommendation. Further, GRECO has not been informed of any progress in the adoption of the draft Law on Conflicts of Interest, to which the authorities had previously referred as carrying the potential of contributing to the implementation of this [and a number of previous] recommendation[s]. No tangible progress has been achieved.

² Information on the property of public office holders in the Sarajevo Canton can be found at: www.anticorruptiks.com and is easily accessible to all interested parties.

30. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

31. *GRECO recommended that the advisory, supervisory and enforcement regime regarding conflicts of interest be completely reviewed and properly articulated, notably, by ensuring its independence and timeliness, and by making it effective through a system of appropriate sanctions.*

32. GRECO recalls that this recommendation was partly implemented according to the Compliance Report: GRECO took note of the activities carried out by the Commission for Deciding on Conflicts of Interest (CDCI) and additional improvements envisaged under the draft Law on Conflicts of Interest, including improvements to advisory, supervisory and enforcement regime regarding conflicts of interest, reviewed composition of the CDCI, modalities of election of its members, their expertise, experience, administrative and investigative powers, as well as human and financial resources. However, these proposals were yet to be adopted and effectively implemented in practice.

33. The authorities report that the draft Law on Conflict of Interest has been recently submitted to the Parliamentary Assembly of Bosnia and Herzegovina, which in turn transmitted it back to the Council of Ministers for additional examination (see paragraph 18 above). No new information has been received regarding the activities of the CDCI. In view of the absence of further tangible progress regarding this recommendation, GRECO cannot conclude that this recommendation has been implemented satisfactorily.

34. GRECO concludes that recommendation vi remains partly implemented.

Recommendation vii.

35. *GRECO recommended that the respective parliaments of the Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina be invited, similarly, to take action in accordance with the recommendations issued in this section of the report.*

36. It is recalled that this recommendation was considered partly implemented in the Compliance Report. GRECO took note of the adoption of codes of conduct in the Brčko District and several cantons of the Federation of Bosnia and Herzegovina, the process of adoption of codes of conduct in the Federation of Bosnia and Herzegovina and Republika Srpska, and the Entities' access to information and public consultation mechanisms, as well as other efforts to enhance transparency, integrity and accountability in their respective legislatures.

37. The authorities have provided no new information regarding measures taken by parliaments of the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District in accordance with the recommendations issued in this section. The only measures reported were limited to the adoption of a law, a strategy and an action plan in the Canton of Sarajevo.

38. GRECO takes the view that the limited information concerning some measures taken in one canton was insufficient to re-evaluate the implementation of this recommendation, as its scope is primarily addressed to parliaments of the Entities.

39. GRECO concludes that recommendation vii remains partly implemented.

Corruption prevention in respect of judges and prosecutors

Recommendation viii.

40. *GRECO recommended that determined legislative and operational measures be taken to strengthen the High Judicial and Prosecutorial Council's role in protecting the holders of judicial and prosecutorial offices from undue influences – both real and perceived – including by (i) providing for separate judicial and prosecutorial sub-councils; and (ii) avoiding an over-concentration of powers in the same hands concerning the different functions to be performed by members of the High Judicial and Prosecutorial Council; and (iii) ensuring that decisions of the High Judicial and Prosecutorial Council on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court.*
41. GRECO recalls that recommendation viii was considered not implemented according to the Compliance Report, as the amendments to the Law on the High Judicial and Prosecutorial Council, which should have incorporated requirements of this recommendation, had been pending since 2013, without having been adopted. Further, no operational measures have been taken to implement this recommendation even partly.³
42. The authorities now report that in July 2018 the High Judicial and Prosecutorial Council (HJPC) decided to revise the Law on the HJPC and submitted the relevant proposal to the Ministry of Justice of Bosnia and Herzegovina. According to the authorities, the proposed draft aims at amending the composition of the HJPC, establish the Judicial and Prosecutorial Council Departments and their sub-councils, provide more detailed definition of duties of the HJPC members, revise the rules for their appointment and the duration of their mandates. Further, the draft also envisages improvements regarding performance evaluation and promotions, disciplinary liability and procedure, and financial reporting of judges and prosecutors. Further, at the ministerial meeting held in July 2018, the aforesaid legislative initiative was considered as a good basis for further discussion, and that the Working Group,⁴ established for this purpose with the Ministry of Justice of Bosnia and Herzegovina should take it into consideration.
43. The authorities also report that in the course of its June 2019 session, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina decided to examine by urgent procedure the draft law on amendments to the Law on the HJPC and requested the Ministry of Justice of Bosnia and Herzegovina to submit to the Parliamentary Assembly an analysis of necessary amendments to laws in the field of justice.⁵ In August 2019, the Council of Ministers of Bosnia and Herzegovina instructed the Ministry of Justice to proceed with the activities of the Working Group, in particular to examine the draft amendments to the Law on the HJPC, in parallel with the initiative submitted by the HJPC.
44. GRECO takes note of the information provided by the authorities. Some actions appear to have been taken in the direction of amending the Law on the High Judicial and Prosecutorial Council, and consultations on concrete proposals now involve

³ For instance, to avoid that the same HJPC members be involved in different aspects of a judge's or a prosecutor's career.

⁴ The Working Group was established in August 2018 and is composed of representatives of the Ministries of Justice of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, and Republika Srpska, the Judicial Commission of Bosnia and Herzegovina, and the HJPC. It held its first two meetings in January and February 2020.

⁵ As requested in the opinion of the European Commission regarding the application of Bosnia and Herzegovina for membership of the European Union.

several ministries at the State and Entity levels, as well as Parliament. Further, the intended creation of separate judicial and prosecutorial departments and sub-commissions, if materialised, would appear to be a step in the right direction. However, draft amendments have still not been submitted to Parliament for examination and adoption.

45. GRECO concludes that recommendation viii remains not implemented.

Recommendation ix.

46. *GRECO recommended that further steps are taken to improve the performance appraisals (with a priority given to qualitative over quantitative criteria) to both enforce the high ethical and performance standards expected from judges and prosecutors and assist in identifying meritorious candidates for promotion.*
47. GRECO recalls that according to the Compliance Report, this recommendation was partly implemented: while the adoption of different legal acts containing updated criteria and benchmarks for evaluating the work of prosecutors was welcomed, GRECO stressed the need to include chief prosecutors of the Entities under the scope of the evaluation system, and adopt evaluation criteria in this respect. GRECO also noted that the performance appraisal system for judges was yet to be upgraded.
48. The authorities now report that on 27 November 2018, the HJPC adopted new criteria for evaluating the performance of judges and prosecutors, including in respect of chief State Prosecutor and Chief Prosecutors of the Entities.⁶ According to the authorities, evaluation of performance of prosecutors and judges for 2019 will be initiated in the first quarter of 2020 and will be carried out in accordance with the newly adopted criteria. The authorities report that the new criteria are based on recommendations from the evaluation of the performance of judges and prosecutors, prepared in 2017 by experts provided by the European Commission, and aim at achieving an appropriate balance between quantitative and qualitative performance evaluation criteria.
49. According to the authorities, the judges will be evaluated in terms of analytical quality of their work and decisions taken against such elements as: the quality of reasoning in court decisions, the quality of court proceedings, the manner of communication with the parties, other bodies, relationship with associates, etc. This evaluation will be based on the opinion of the presiding judge of the respective court, the opinion of the division of a higher instance court, based on a review of court rulings on a legal remedy in cases under the responsibility of the evaluated judge, a detailed examination report of a number of randomly selected cases, information on adjourned hearings, length of proceedings, etc. The new evaluation criteria also contain elements for evaluating the managerial performance of presidents of judicial departments.
50. As to the evaluation of prosecutors, the quality of their decisions will be assessed against such elements as: ability to determine key facts relevant to prosecutorial decisions, resolve complex cases, speedy decision-making capacity and compliance with deadlines, ability to investigate proactively, expert quality of prosecutorial

⁶ In particular, the following documents were adopted by the HJPC: Criteria for evaluating the performance of prosecutors in Bosnia and Herzegovina; Criteria for evaluating the performance of chief prosecutors, deputy chief prosecutors and heads of departments/divisions of the prosecutor's offices in Bosnia and Herzegovina; Criteria for evaluating the work of the Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina, the Prosecutor's Office of the Federation of Bosnia and Herzegovina, the Prosecutor's Office of the Republika Srpska and the Prosecutor's Office of the Brčko District of Bosnia and Herzegovina; Criteria for evaluating the performance of judges in Bosnia and Herzegovina; Criteria for evaluating the performance of court presidents and presidents of court departments/divisions in Bosnia and Herzegovina; Rulebook on the procedure for evaluating the performance of judicial office-holders.

decision, legal knowledge and the use of legal remedies. In the course of evaluations, it is intended to consult such information sources as reports on detailed review of a number of randomly selected cases, resolved by the prosecutor during the evaluation period, opinion of the deputy chief of the prosecutor's department, and a written opinion from a higher instance prosecutor's office, based on a review of a randomly selected case under responsibility of the evaluated prosecutor.

51. In addition to the new elements of performance evaluation, traditional criteria for evaluating the performance of judges and prosecutors will continue to apply. Further, in September 2018 and April 2019, the HJPC adopted amendments to the Rulebook on orientational standards for the work of prosecutors, setting specific quantitative standards for the prosecutors' work in high-level corruption cases and cases in involving financial investigations. A new Rulebook on orientational standards for the work of judges is being drafted to improve the rules on the workload of judges. Moreover, on 27 November 2018, the HJPC adopted new rules on the allocation and resolution of old cases in chronological order, aiming to improve their submission to court.
52. The authorities further report that the proposal on amending the Law on the HJPC, submitted in June 2018 to the Ministry of Justice (see paragraph 42), provides, *inter alia*, for the evaluation of the work of all judges, prosecutors, court presidents and chief prosecutors in Bosnia and Herzegovina once every three years, by the Evaluation Commission, set up by the HJPC. According to this proposal, the Judges' Evaluation Commission shall consist of all judge-members of the HJPC and one judge from each – the Supreme Court of the Federation of Bosnia and Herzegovina, the Supreme Court of the Republika Srpska, the Court of Bosnia and Herzegovina and the Appellate Court of the Brčko District. The Prosecutors' Evaluation Commission is proposed to consist of all HJPC prosecutor-members and one prosecutor from each – the Prosecutor's Office of the Federation of Bosnia and Herzegovina, the Prosecutor's Office of the Republika Srpska, the Prosecutor's Office of Bosnia and Herzegovina and the Prosecutor's Office of the Brčko District.
53. GRECO takes note of the adoption of separate criteria for evaluating judges and prosecutors. However, GRECO wishes to stress that it is critically important that any evaluations of judges' performance are strictly done within the judiciary itself, and without any influence from the executive or legislative powers. It follows that the implementation of the current recommendation is also contingent on the establishing of the relevant Evaluation Commissions for judges and for prosecutors, as envisaged in the draft amendments to the Law on HJPC above (paragraph 52).
54. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.

55. *GRECO recommended (i) carrying out an analysis of the budgetary and staff situation in courts and prosecution offices, with a view to ensuring that the resources necessary are available and efficiently used across the judicial systems; and (ii) seeing to it that judicial resources are better prioritised with due regard for the gravity of cases.*
56. GRECO recalls that this recommendation was not implemented according to the Compliance Report as no analysis of courts' and prosecutorial budgetary and staff situation was available.
57. The authorities now report that the HJPC continuously analyses the financial and human resources of courts and prosecutors' offices and annually contributes to preparation of budget guidelines of judicial institutions of Bosnia and Herzegovina for

the forthcoming year.⁷ The authorities also refer to the on-going analysis of the needs for non-prosecutorial staff for each prosecutor's office, expected to be finalised by the end of 2019 to serve as a basis for a proposal to amend the HJPC ratio of the number of employees to the number of prosecutors.

58. The authorities point out that budgets used for funding courts and prosecutors' offices are approved by the executive and legislative authorities of the State and respective Entities, making the implementation of the second part of this recommendation contingent on decisions made by these institutions. The HJPC annually prepares its financial plans (three-year and annual plans), which contain elements applicable to all budget institutions, and submits them to the Ministry of Finance and Treasury of Bosnia and Herzegovina. According to the authorities, the consolidation data on costs and number of resolved cases in courts and prosecutors' offices for 2016-2018, which will be the basis for estimating costs per court/prosecutor's case, is still on-going.
59. GRECO takes note of the information provided by the authorities and notes that the financial analysis of courts and prosecutors' offices referred to are ordinary annual budget process, as well as three years ahead. It recalls that the current recommendation is addressing the problems of backlogs of cases. In order to deal with this particular problem, GRECO recommended to analyse it from a budget and staffing angle. This has not been done. As regards the second part of the recommendation, GRECO wishes to underline that its recommendations are addressed to member States, and not separate institutions. It trusts that the relevant authorities of Bosnia and Herzegovina (at State, Entity and Cantonal levels) will take the necessary measures to ensure that judicial resources are better prioritised with due regard to the backlogs of cases, and looks forward to receiving updated information in this regard.
60. GRECO concludes that recommendation x remains not implemented.

Recommendation xi.

61. *GRECO recommended significantly strengthening and further developing – for judges and prosecutors – confidential counselling and dedicated training of a practical nature on issues of ethics and integrity.*
62. It is recalled that this recommendation was partly implemented in the Compliance Report: training activities on ethics and integrity in the judiciary and prosecution had been organised at the State level and the High Judicial and Prosecutorial Council advised training centres in the Entities to conduct practical seminars on ethics, integrity, and the prevention of conflicts of interests. However, confidential counselling on ethics and integrity for judges and prosecutors was yet to be developed.
63. The authorities now report that as of 1 January 2019, topics of integrity and ethics have become a mandatory part of the initial training for newly appointed judges and prosecutors. Ethics and integrity were also included as mandatory topics for expert associates and advisors in courts and prosecutors' offices of the three-year training course under the module entitled "Judicial office holders and the society", taught in the first and the third year. Further, 33 participants (members of the HJPC and external members of the judicial community) attended training on "Disciplinary Procedure and Practice", held on 25 April 2018 in Sarajevo. Another training course entitled "Ethical Standards with a Special Focus on the Prevention of Conflict of

⁷ This analysis includes such parameters as the budget of the year in progress, costs incurred in the course of three previous years, number of cases in courts and prosecutors' offices, recommended and actual ratios non-judicial/non-prosecutorial staff to the number of judges and prosecutors, needs for procurement of ICT equipment and reconstruction/construction of courts and prosecutors' office premises according to the HJPC projects.

Interest” (Sarajevo, 18-19 April 2018) was attended by 28 participants. In addition, the HJPC, in collaboration with the USAID, developed a Manual for the application of the Code of Judicial Ethics and the Code of Prosecutorial Ethics, published in February 2019.

64. The authorities also refer to integrity plans, drafted by relevant judicial institutions at the State, Entity and Cantonal levels, and submitted to the HJPC for opinion. Based on the feedback received from the HJPC, by early 2018, some 98 institutions have adopted integrity plans for the period of 2018-2021. As of April 2019, judicial institutions began preparing reports on the implementation of respective integrity plans with a view to submitting them to the HJPC, which envisages to examine the summary report on the implementation of these plans.
65. GRECO takes note of the information provided by the authorities. It notes further efforts to provide training to representatives of the judiciary and prosecution on topics of ethics and integrity and welcomes the development of the manual for application of the relevant codes of ethics for judges and prosecutors. That said, GRECO is concerned that there is still no confidential counselling on issues of ethics and integrity available for these two professions at any level in Bosnia and Herzegovina, and no measures appear to have been taken to implement this part of the recommendation.
66. GRECO concludes that recommendation xi remains partly implemented.

Recommendation xii.

67. *GRECO recommended developing rules on conflicts of interest that apply to all judges and prosecutors, along with an adequate supervisory and enforcement regime.*
68. GRECO recalls that this recommendation was partly implemented in the Compliance Report: the adoption of Guidelines for the prevention of conflicts of interest in the judiciary was welcomed but an effective system for supervision and enforcement regime to ensure observance of rules on conflicts of interest was missing.
69. The authorities now report that as regards proceedings for disciplinary violations, primary reference documents are the respective codes of judicial and prosecutorial ethics. In their view, although observance of the provisions of the code of ethics is not currently prescribed by a binding norm, and nor is the non-compliance with these provisions considered a disciplinary violation, the Office of the Disciplinary Prosecutor and the HJPC Disciplinary Commission increasingly consider certain conduct of judges and prosecutors as violations of codes of ethics and qualify them as disciplinary violations. Thus, the impact of these documents and their importance in disciplinary proceedings is enhanced through practice. That said, there are still no disciplinary proceedings initiated by the Office of the Disciplinary Prosecutor with reference to violation of the Guidelines for the prevention of conflicts of interest.
70. Further, the authorities report that at the December 2018 Conference of judges and prosecutors, entitled “Judiciary system - current situation and perspective”, the HJPC decided to make it mandatory for all judicial institutions in Bosnia and Herzegovina to implement the Guidelines on preventing conflicts of interest in the judiciary (adopted in July 2016), as well as the adopted integrity plans, which will be subject to continuous monitoring by the HJPC. In order to ensure the implementation of these Guidelines, in November 2018 the HJPC updated the codes of judicial and prosecutorial ethics, having supplemented them by the rules of the Guidelines, and

adopted, in February 2019, the Code of Ethics Application Manual.⁸ By mid-2019, judicial institutions in Bosnia and Herzegovina submitted their reports on the implementation of integrity plans for 2018 and were preparing an Annual Report on this topic, which was later presented at the HJPC session in September 2019, disseminated to relevant institutions at the State and Entity levels and published on the HJPC website. Further, in mid-July 2019, the HJPC completed the final third cycle of the survey for judicial office-holders on ethics and disciplinary responsibility.⁹ The survey results were presented at the HJPC session in September 2019 and were also published on the website.

71. To establish a mechanism for monitoring the implementation of the Guidelines, the HJPC adopted, in November 2018, the Instrument for monitoring the application of the Guidelines for the prevention of conflicts of interest in the judiciary. By analysing data collected on the basis of the indicators defined in this Instrument, the HJPC estimates to be able to improve mechanisms for the prevention of conflicts of interest in the judiciary and take relevant decisions on the basis of specific indicators and exact data. At its session held in September 2019, the HJPC adopted the document entitled "Institutional Mechanisms and Records for the Implementation of the Instruments for Monitoring the Implementation of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary", and tasked the Working Group for improving the integrity and responsibility of judicial office holders to continue implementing these activities.
72. GRECO notes the information provided by the authorities, illustrating that further progress has been made in the setting up of a mechanism to supervise and enforce the application in practice of the Guidelines for the prevention of conflicts of interest in the judiciary. However, this work has not yet been completed.
73. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiii.

74. *GRECO recommended (i) developing an effective system for reviewing annual financial statements, including adequate human and material resources, co-operation channels with relevant authorities and appropriate sanctions for non-compliance with the rules or false reporting and (ii) considering ensuring the publication of and easy access to financial information, with due regard to the privacy and security of judges, prosecutors and their close relatives.*
75. GRECO recalls that this recommendation was not implemented according to the Compliance Report. GRECO took note of the authorities' plans to carry out different projects, which would address this recommendation, but none of these projects were initiated at the time.
76. The authorities of Bosnia and Herzegovina now report that in September 2018, the HJPC adopted the Rulebook¹⁰ on the submission, verification and processing of the financial statements of judges and prosecutors, which contains a new financial statement form.¹¹ The Rulebook establishes procedures and transparency standards for financial reporting, which includes obligations, manner and reporting timeframe, sources of incomes and the manner of property acquisition, as well as information on

⁸ This Manual consolidates all guidelines on conduct of judges and prosecutors, conflicts of interest and rules on ethics.

⁹ The purpose of the survey was further analysing the judges' training needs on ethics and conflict interests, as well as exploring perceptions of judicial office-holders of the fairness and impartiality of disciplinary proceedings.

¹⁰ The Rulebook entered into force on 1 January 2019 and requires judicial office-holders to electronically submit financial statements for 2018.

¹¹ The form can be consulted via the following link:

https://vstv.pravosudje.ba/vstv/faces/docservlet?p_id_doc=48889

their relatives employed in the judiciary. The Rulebook also gives an active role to the HJPC in supervising the submission, monitoring, processing and verification of electronic financial statements, including the modalities of cooperation with competent authorities, publication on the HJPC website, in accordance with the legal framework on access to public information and ensuring protection of personal data.

77. However, following an administrative review upon request of the Association of Judges of Bosnia and Herzegovina, the Personal Data Protection Agency prohibited the HJPC from processing personal data in the manner prescribed in the Rulebook. As the result, the HJPC decided to postpone the application of the Rulebook until conclusion of court proceedings, initiated following the HJPC's appeal before the Court of Bosnia and Herzegovina against the decision of the Personal Data Protection Agency. In addition, the HJPC decided to further amend the Rulebook, which will reflect the conclusions of the above-mentioned administrative dispute and will ensure expediency and transparency of financial reporting. The HJPC is also considering setting up a separate administrative unit within its internal structure with the task of reviewing and processing of financial statements, which would be appropriated with adequate human and other resources.
78. GRECO takes note of the developments reported by the authorities, i.e. the establishment of a Rulebook of instructions on how to deal with financial statements and the role of the HJPC to monitor such statements. However, it would appear that this process has been interrupted following a dispute at court. In these circumstances, GRECO cannot conclude that this recommendation has been implemented even partly.
79. GRECO concludes that recommendation xiii remains not implemented.

Recommendation xiv.

80. *GRECO recommended that (i) the independence, capacity and transparency of the activity of the Office of the Disciplinary Counsel be increased; and that (ii) the disciplinary procedure and sanctions in case of misconduct of judges and prosecutors be revised in order to ensure that cases are decided in a timely manner and that misconduct is effectively subject to proportionate and dissuasive sanctions.*
81. GRECO recalls that this recommendation was not implemented according to the Compliance Report. It was noted that guidelines on integrity plans, conflicts of interest and disciplinary measures in respect of judges did not address the majority of substantive parts of the recommendation. GRECO also noted that beyond the adoption of guidelines, the implementation of the first part of the recommendation was contingent on amending the Law on the High Judicial and Prosecutorial Council, which had not materialised at the time. Further, there was a lack of practical examples of cases where the HJPC's disciplinary panels applied dissuasive sanctions.
82. The authorities now report that in the course of 2018 the HJPC, in cooperation with the USAID, took several further measures towards developing documents on disciplinary proceedings for judges and prosecutors. In particular, the draft Manual for Disciplinary Procedure was prepared, intended for all participants¹² of disciplinary proceedings, composition and operation of disciplinary committees, types of disciplinary sanctions, as well as complementary measures, such as temporary removal of a judge or prosecutor from their duties, incapacity of a judge or a prosecutor to perform their function, and incompatibility of judge's or prosecutor's function with their other duties. The draft Manual also includes summaries of previous

¹² I.e. the Office of the Disciplinary Prosecutor, members of disciplinary commissions, the respondent judge or prosecutor and their lawyers.

final disciplinary decisions, covering all cases resulting in a disciplinary sanction, and model forms to be used as examples in disciplinary proceedings, such as a model disciplinary decision, containing possible reasoning. In addition, the Manual contains other previously adopted documents.¹³ At its session held in September 2019, the HJPC adopted the Manual for Disciplinary Procedure of the HJPC, which was made public on several domestic websites. In particular, www.justice.ba, the HJPC's website, and websites of the HJPC Secretariat's Judicial Documentation Centre and the Office of Disciplinary Prosecutor. The Manual was also transmitted to the Federation of Bosnia and Herzegovina, the Republika Srpska, and to the Judicial Commission of the Brcko District. The authorities intend using it for trainings of new members of disciplinary committees.

83. The authorities also refer to training activities on disciplinary proceedings, carried out in cooperation with the judicial training centres of the Federation of Bosnia and Herzegovina and Republika Srpska, including initial and continuous training of staff of the Office of Disciplinary Prosecutor and members of disciplinary commissions of the HJPC. Further, according to the authorities, a system of electronic allocation of disciplinary cases to committees has been established, and the necessary training of staff is being conducted in this regard. At its October 2018 session, the HJPC requested court presidents and chief prosecutors to inform judges/prosecutors of their institution of disciplinary proceedings which led to sanctions in respect of judges of their respective courts, or prosecutors of their respective offices, and to provide this information to the HJPC as part of regular annual reports.
84. To strengthen the capacity of the Office of Disciplinary Prosecutor, in September 2018 the HJPC recruited three additional disciplinary prosecutors, and two additional members of administrative staff of this Office. No general review has been conducted so far to determine the adequacy, proportionality and dissuasive effect of sanctions imposed in disciplinary proceedings by the HJPC. The authorities take the view that the effectiveness and dissuasiveness of the sanctions will depend on each specific case, which should reflect individual characteristics of the disciplinary violation in question and be considered and determined individually.
85. GRECO notes with satisfaction the adoption of the Manual on Disciplinary Procedures, which has the potential of being a useful reference source to judicial office-holders in general and those responsible for disciplinary proceedings in particular. GRECO also notes further efforts to raise awareness of disciplinary proceedings among relevant officials. Nonetheless, GRECO regrets to note that preparation of numerous guiding documents, as well as training efforts, have not until now translated into their application in practice, as the authorities could not, once again, provide any examples of cases where the disciplinary panels imposed proportionate and dissuasive sanctions.
86. GRECO concludes that recommendation xiv has been partly implemented.

¹³ Such as, for instance, Codes of Judicial and Prosecutorial Ethics, Manual for the Application of Ethical Codes, Guidelines for the Prevention of Conflicts of Interest in the Judiciary, Instrument for Monitoring the Application of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary, and Guidelines for the Development and Implementation of Integrity Plans in the Courts and Prosecutor's Offices of Bosnia and Herzegovina.

Recommendation xv.

87. *GRECO recommended that a communication policy, including general guidelines and training on how to communicate with the media and the relevant civil society organisations, be developed for the judicial system (judges and prosecutors) with the aim of enhancing transparency and accountability.*
88. It is recalled that this recommendation was partly implemented in the Compliance Report; many of the activities mentioned by the authorities predated the adoption of the Evaluation Report, and activities carried out since the adoption of the Evaluation Report appeared to be a continuation of the previous ones. GRECO recalled that training activities should be integrated into a comprehensive policy, aimed at restoring public trust and improving the image of the judiciary. Further, GRECO wished to know whether several initiatives¹⁴ concerning communication with the media and the general public, contained in the Justice Sector Reform Strategy for 2014-2018, had materialised.
89. The authorities now report that one of the means for achieving greater transparency in the judiciary is the publication of court decisions. According to the authorities, since 2008 the HJPC published selected decisions of high instance courts and lower court on the website of the Centre for Court Documentation,¹⁵ which currently contains 12,170 court decisions, searchable by different metadata, including cases of organised crime and corruption. The news on court decisions and other content published on the Centre's website is also disseminated monthly by means of an electronic leaflet.
90. GRECO takes note of the information provided, which allows to conclude that no tangible progress has been made in the implementation of this recommendation, especially as regards developing a communication policy for the judicial system. No information was provided as to the realisation of projects aimed at improving communication between the judicial system and the general public, envisaged in the Justice Sector Reform Strategy for 2014-2018. GRECO notes that the authorities have not taken any new measures to implement this recommendation over a considerable period of time. As things stand currently, GRECO does not see any tangible progress made as regards establishing a communication policy and calls upon the authorities of Bosnia and Herzegovina to step up their efforts in this respect.
91. GRECO concludes that recommendation xv remains partly implemented.

¹⁴ Such as regularly informing the public about the role and work of judicial institutions, ensuring that all communications by judicial institutions follow the same principles, and publishing more detailed statistics on some types of criminal offences.

¹⁵ This database is accessible (local language) via the following link: www.pravosudje.ba/csd

III. CONCLUSIONS

92. **In view of the foregoing, GRECO concludes that Bosnia and Herzegovina has implemented satisfactorily none of the fifteen recommendations contained in the Fourth Round Evaluation Report.** Eleven recommendations have been partly implemented and four have not been implemented.
93. More specifically, recommendations i, ii, iv, v, vi, vii, ix, xi, xii, xiv and xv have been partly implemented and recommendations iii, viii, x and xiii have not been implemented.
94. With respect to members of parliament, practically no new developments have taken place to strengthen the integrity system. Rules have still not been introduced for parliamentarians on their interaction with third parties, and the lack of advisory and training opportunities on corruption prevention matters for members of Parliament persists. No new information was provided as regards monitoring reports on the implementation of the Code of Conduct for parliamentarians in practice. A much-awaited new Law on Conflicts of Interest, expected to contribute to harmonising State- and Entity-level legislation on conflicts of interest, has still not been adopted, but is currently referred back to the Government for further consideration. The authorities are yet to introduce a credible and independent mechanism to prevent and solve conflicts of interest or ensure an in-depth checking of asset declarations by State-level MPs.
95. As to judges and prosecutors, the amendments to the Law on the High Judicial and Prosecutorial Council, which has been in the pipeline for several years, have still not been adopted and separate judicial and prosecutorial departments and sub-commissions have still not been established within the HJPC structures. The criteria for evaluating the performance of judges and prosecutors have been broadened to include chief prosecutors at the State and Entity levels; however, guarantees of non-interference from the executive and the legislative powers during these evaluations are yet to be established. No budgetary and staff analysis relating to problems of backlogs of cases has been carried out. Further, the prolonged absence of any tangible measures to establish a communication policy for the judicial system remains a serious concern. GRECO calls upon the authorities of Bosnia and Herzegovina to enhance their efforts and take more determined steps to address critical issues regarding the judiciary and prosecution, as highlighted in the Evaluation Report.
96. In view of the lack of tangible progress overall in implementing GRECO's recommendations since the First Compliance Report, GRECO concludes that the very low level of compliance with the recommendations is now "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the Evaluation Report, and asks the Head of delegation of Bosnia and Herzegovina to provide a report on the progress in implementing the pending recommendations (i-xv) as soon as possible – at the latest – by 30 September 2021.
97. Finally, GRECO invites the authorities of Bosnia and Herzegovina to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.