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Groupe d'États contre la corruption

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## FOURTH EVALUATION ROUND

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

### COMPLIANCE REPORT

### BULGARIA

Adopted by GRECO at its 76<sup>th</sup> Plenary Meeting  
(Strasbourg, 19-23 June 2017)

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## I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Bulgaria to implement the recommendations issued in the Fourth Round Evaluation Report on Bulgaria which was adopted at GRECO's 67<sup>th</sup> Plenary Meeting (27 March 2015) and made public on 13 May 2015, following authorisation by Bulgaria ([Greco Eval IV Rep \(2014\) 7E](#)). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".
2. As required by GRECO's Rules of Procedure, the authorities of Bulgaria submitted a Situation Report on measures taken to implement the recommendations. This report was received on 14 October 2016 and on 26 January 2017 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Albania and Ireland to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Lorena PULLUMBI, on behalf of Albania and M. John GARRY, on behalf of Ireland. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

## II. ANALYSIS

5. GRECO addressed 19 recommendations to Bulgaria in its Evaluation Report. Compliance with these recommendations is dealt with below.

### *Corruption prevention in respect of members of parliament*

#### Recommendation i.

6. *GRECO recommended i) ensuring the effective enforcement in practice of the provisions of the Rules of Procedure regulating the Assembly's interaction with civil society, commercial and non-commercial entities and citizens and their participation in the law-making process; and ii) putting in place more adequate timelines for considering bills within the Assembly as the means of securing meaningful and effective engagement by all interested parties.*
7. First, the authorities state that, on 23 April 2015, a new structure, the Public Council, was established under the National Assembly's Committee on Interaction with Non-Governmental Organisations and Citizens' Complaints. It is composed of 22 members representing NGOs active in different fields. From 30 April 2015 to 30 September 2016, the Public Council submitted specific proposals for amending nine laws. In addition, from January 2015 to October 2016, 503 opinions were submitted by NGOs to the National Assembly's permanent committees, and civil society representatives were invited to the committee meetings for the consideration of the respective draft laws.
8. Furthermore, amendments to the National Assembly's Rules of Procedure were adopted on 27 October 2016. The new composition of the National Assembly elected in April 2017 has adopted new Rules of Procedure without amending the

relevant provisions at issue.<sup>1</sup> The authorities state that one of the main purposes of the amendments was to ensure effective transparency of the legislative process and to enhance interaction with civil society and other interested parties. Amendments provide for the establishment of a single informative dossier for each draft law where the whole process of consideration of the draft should be reflected, including proposals made by civil society and other interested parties as well as discussions (Art. 76, para. 6). In addition, in order to enhance transparency of the legislative process, a mandatory requirement is introduced whereby members of parliament must provide the rationale of their proposals concerning draft laws, be they written proposals or oral proposals made during the meetings of the respective parliamentary committee. This information is to be included in the report of the respective committee (Art. 83, paras. 1 and 5).

9. Secondly, the authorities note that recent amendments to the National Assembly's Rules of Procedure aim at establishing adequate timelines for considering draft legislation and securing effective public engagement in the legislative process. In particular, the deadline whereby draft laws had to be considered by committees at first reading within three weeks from their receipt by committee members is now removed and a deadline of two months (Art. 78, para. 3) will be applied to the consideration of draft laws at first reading by committees, with the participation of civil society representatives and other interested parties. In addition, the deadline for the consideration of draft laws by committees at second reading is abolished (Art. 83, para. 5).
10. The authorities also recall that draft laws submitted to the National Assembly are immediately registered in a Public Register "Bills" (Art. 76, para. 1) and from that moment any interested person can consult them. The President allocates the draft law within three days to a committee, which then starts discussions on the draft law no earlier than 24 hours afterwards (Art. 78, para. 1). The authorities contend that this means that civil society representatives and other interested parties have at least four days to submit opinions; they can also attend the meetings of the committee examining the draft law at first reading (Art. 32). Further, committees must request opinions from the relevant authorities and organisations on bills submitted by MPs regulating labour and insurance relations, rights of persons with disabilities and related to the judiciary (Art. 79, paras 2-5). The authorities consider that this will allow careful examination and consideration of all proposals made during consultations on draft laws (before their submission to the Plenary), including those made by civil society and other interested parties. The authorities indicate that, in practice, between April 2015 and June 2017, out of 547 bills submitted to the National Assembly, 293 were adopted, only 15 of which followed a fast-track procedure before the parliamentary committees concerned. Further, 5 of the 15 bills were submitted by the Government, hence already published on its website, in areas requiring rapid legislation and the majority of the remaining 10 were submitted by MPs with cross-party support.
11. In addition, draft laws may not be considered at first reading by the National Assembly plenary before 24 hours have elapsed following the submission of the report of the Committee in charge (Art. 36, para. 3 and Art. 79, para. 1). Finally, the authorities argue that the practice regarding the use of the minimum period to discuss draft laws by committees is exceptional and is mainly applied because of the expiration of statutory limitations for exercising legal rights.
12. GRECO takes notes of the information provided by the authorities. As to the first part of the recommendation, GRECO welcomes the setting-up of the Public Council under the Committee on Interaction with Non-Governmental Organisations and

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<sup>1</sup> [www.parliament.bg/en/rulesoftheorganisations](http://www.parliament.bg/en/rulesoftheorganisations)

Citizens' Complaints as way of better involving civil society in the legislative process by providing a framework for putting forward their proposals for amendments. It also sees as positive developments both the introduction of single informative dossiers for each draft law, including proposals made by civil society and discussions on the draft, and the requirement for MPs to substantiate their proposals regarding draft laws. GRECO considers that these developments respond to the first part of the recommendation.

13. On the second part of the recommendation, GRECO takes notes of the extension of deadlines for the consideration by committees of draft laws at first readings and removal of any deadline at second readings in the Rules of Procedures, which potentially provides additional time for the examination of proposals from civil society interlocutors. As to the possibility for parliamentary committees of holding debates within 24 hours after receiving draft laws, GRECO notes from the statistics furnished by the authorities that in practice this has been used in a limited number of cases since the adoption of the Evaluation Report. Therefore, GRECO considers that this part of the recommendation has also been implemented.
14. GRECO concludes that recommendation i has been implemented satisfactorily.  
  
Recommendation ii.
15. *GRECO recommended that i) consistent enforcement of Section II of the Rules of Procedure on "Ethical rules of conduct" be ensured and the specific sanctions triggered by each infringement of ethical principles clarified; and that ii) awareness of the ethical standards of conduct be promoted and deepened via designated guidance, training and counselling (including confidential) for MPs on issues such as conflicts of interest, the limits on contacts with third parties, gifts, etc.*
16. The authorities state that the aforementioned amendments to the National Assembly's Rules of Procedure of 2016 (see paragraph 8) introduce specific sanctions for breaches of ethical rules and establish a procedure for their imposition. In particular, the Committee on Anti-Corruption, Conflicts of Interest and Parliamentary Ethics (CACP) may impose the following sanctions: reprimand, censure and temporary suspension from participating in up to three committee meetings. An MP who is suspended from participating in committee meetings will not be entitled to remuneration for these meetings (Art. 153, Rules of Procedure). In addition, the amendments provide that any MP, individual or legal person may file a complaint with the CACP or report an infringement of the ethical standards to it. The latter is empowered to impose one of the above sanctions after hearing the MP and examining all materials related to the breach of ethical rules. The CACP will publish the decision in the Public Registry of the National Assembly after it has been notified to the MP. This MP is entitled to give his/her opinion on the decision, which is also to be published in the said registry (Art. 154, Rules of Procedure).
17. In addition, the authorities report that, to raise awareness of the ethical rules, the above-mentioned amendments to the Rules of Procedure provide that the CACP must give advisory opinions to MPs on the implementation of ethical standards of conduct. Upon request by an MP, the "provision of clarifications" (i.e. guidance and counselling) can be made confidentially (Art. 150, Rules of Procedure).
18. GRECO welcomed in its Evaluation Report the inclusion of a section on "Ethical rules of conduct" in the Rules of Procedure. GRECO notes that a procedure has now been put in place to deal with breaches of ethical rules, which involves the CACP imposing sanctions in case of infringements by MPs, and that any MP, individual or legal person can file a complaint with the CACP or report an infringement to it. The decision linked to disciplinary proceedings against an MP will be published in the

National Assembly Public Registry. GRECO welcomes this development and the awareness raising measures taken in line with the second part of the recommendation.

19. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendations iii and iv.

20. *GRECO recommended:*

- *i) carrying out an independent evaluation of the effectiveness of the system for disclosure and ascertainment of conflicts of interest and of its impact on the prevention and detection of corruption amongst officials most exposed to it, including MPs, and taking appropriate corrective action (e.g. eliminating any contradictions in the regulatory framework, revising the mandates of responsible oversight bodies, supplying them with commensurate resources, etc.); and ii) ensuring that MPs' private interests – irrespective of whether they are declared regularly or ad hoc – are subject to substantive and regular checks by an independent oversight body within a reasonable timeframe and that an efficient co-operation is established between the authorities supervising MPs' compliance with the rules on conflicts of interest and on asset disclosure. (recommendation iii)*
- *i) carrying out an independent evaluation of the impact of the asset disclosure and verification system on the prevention and detection of corruption amongst officials most exposed to it, including MPs, and taking appropriate corrective action (e.g. revising the mandate of the oversight body, supplying it with commensurate resources or designating, as the need may be, another institution equipped with adequate means for this purpose); and ii) ensuring that MPs' declared assets are subject to substantive regular checks by an independent oversight body within a reasonable timeframe. (recommendation iv)*

21. The authorities state that in 2016 the Commission for Prevention and Ascertainment of Conflict of Interest (CPACI) prepared an analysis on the application of the Law on Prevention and Ascertainment of Conflict of Interest (LCI), covering a period of five years (June 2011 to June 2016). This analysis is focused, *inter alia*, on: the definitions of conflict of interest; the prohibitions of certain activities after leaving a public office; violations related to declaration of the circumstances specified in the law; and sanctions. The analysis has been presented to the National Assembly, including the Committee of Legal Affairs and the Committee on Anti-Corruption, Conflicts of Interest and Parliamentary Ethics, the President, the Prime Minister and the Minister of Justice. The analysis was used for the consideration of the possible legislative and institutional actions aimed at improving the system of prevention of conflicts of interest, including in the context of the parliamentary discussion on the draft Law on Prevention of Corruption and Forfeiture of Illegal Assets (LPC).

22. In respect of the second part of the recommendation, the authorities indicate that on 13 April 2016 the Government submitted the draft LPC to the National Assembly. The draft law provides for the establishment of a single anti-corruption independent body (National Bureau for Prevention of Corruption and Forfeiture of Illegally Acquired Property), combining the functions of verifying asset declarations and assessing conflicts of interest and illegally acquired property regarding high-level public officials, including MPs. In the draft there is a separate chapter on co-operation between public authorities. It provides for a detailed regulation of the declarations submitted by the high-level public officials, including MPs, and their

checks. The draft was adopted by the National Assembly at first reading on 30 June 2016, but had not been finally adopted before the early dissolution of the National Assembly in January 2017.

23. GRECO welcomes the fact that, in line with its recommendation, an assessment of both the framework in place to prevent conflicts of interest and the verification of asset declarations was carried out by an independent body, the CPACI, and that it served as a basis for the preparation of the draft LPC with the aim, *inter alia*, of establishing an independent agency to oversee the verification of asset declarations, the assessment of conflicts of interest and illegally acquired property in respect of MPs. However, the adoption of the LPC is still pending. GRECO recalls that in putting in place this new control system, attention should be given to ensuring that checks are substantive, regular and carried out within reasonable time.
24. GRECO concludes that recommendations iii and iv have been partly implemented.

#### *Corruption prevention in respect of judges*

##### Recommendation v.

25. *GRECO recommended that, in order to help the Supreme Judicial Council to fully assert its legitimacy and credibility and to strengthen its role as guarantor of the independence of judges, decisions on judges' appointment, career, attestation and discipline should be taken by a composition of the Council that is made up of a majority of judges elected by their peers.*
26. The authorities indicate that, on 16 December 2015, the National Assembly adopted amendments to the Constitution aimed at strengthening the integrity and independence of magistrates.<sup>2</sup> These amendments changed the structure and organisation of the Supreme Judicial Council (SJC), including its division in judges and prosecutors colleges. The constitutional amendments were reflected in subsequent amendments to the Law on Judiciary (LOJ) adopted by the National Assembly on 31 March and 27 July 2016. The SJC Judges College consists of 14 members, including the presidents of the Supreme Court of Cassation and the Supreme Administrative Court, six members elected by the judges, and six members from the National Assembly (Art. 130a, para. 3, Constitution; Art. 30, para. 3, LOJ). The Constitution (Art. 130a, para. 5) and the LOJ (Art. 30, para. 5) provides that the SJC Judges College has a number of powers in respect of judges, including to (i) appoint, promote, transfer and release from office; (ii) carry out periodic and other appraisals of judges and address matters concerning the acquisition and restoration of tenure; (iii) impose disciplinary sanctions of demotion and release from office of judges; (iv) appoint and release the administrative heads and the deputy administrative heads of courts with the exception of the Chairperson of the Supreme Court of Cassation and the Chairperson of the Supreme Administrative Court; (v) take other decisions on the organisation of the activities of the courts.
27. GRECO takes note of the information provided by the authorities. In its evaluation report, GRECO noted that the SJC dealt with three professions (judges, prosecutors and investigative magistrates), that there were only six judges out of 25 members, including for procedures concerning exclusively judges' career (appointment, attestation, promotion and disciplinary matters), and that 11 members were elected by the National Assembly. GRECO underlined that it was imperative that the SJC be insulated from undue influence by other branches of power as well as by

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<sup>2</sup> In the Bulgarian context, the term "magistrate" refers to judges, prosecutors and investigating magistrates.

one branch of the judicial authorities over the other within the SJC in matters such as judges' career. Furthermore, GRECO noted that the members representing judges were not elected directly, but through delegated assemblies in which court presidents reportedly enjoyed strong influence.

28. Following the above-mentioned amendments to the Constitution and the LOJ, the SJC is now divided into two colleges, with one specifically dealing with judges and composed of six judges elected directly by their peers, the presidents of the Supreme Court of Cassation and the Supreme Administrative Court (who are appointed by the President on recommendation by the SJC and sit in their own right), and six members elected by the National Assembly. GRECO considers the election of judges directly by their peers to be a positive development, as is the fact that matters regarding judges are now dealt with by a college where the other judicial professions (prosecutors and investigative magistrates) are not represented. That said, GRECO notes the proportion of members elected by the National Assembly in the Judges College remains high, as they are as numerous as elected judges, which continues to pose a risk of politicisation of decisions concerning judges' careers, as mentioned in the evaluation report, for instance in discipline matters. Therefore, whilst acknowledging the progress achieved since the evaluation report, GRECO considers that, owing to the risk of undue influence of the National Assembly on the careers of judges, it cannot consider this recommendation as fully implemented.

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

Recommendation vi.

30. *GRECO recommended that the judicial independence be further strengthened by i) substantially reducing the five-year term established for judges acquiring life tenure; and ii) introducing a distinct methodology for a rigorous and in-depth evaluation of qualifications, integrity, ability and efficiency of a judge for the purpose of acquiring life tenure.*

31. The authorities state that the amendments to the Law on Judiciary (LOJ) adopted on 27 July 2016 provide that the SJC Plenum, acting on a proposal by the Judges College, is to adopt a regulation on the indicators and methodology for appraising judges, as well as on the procedure for carrying out the appraisal (Art. 209b, LOJ). On 20 September 2016, the SJC Judges College established the Commission on Appraisals and Competitions and, on 10 October 2016, this Commission created a working group with the task of preparing a draft regulation in order to set out in detail the indicators and standards concerning compliance of judges with the Code of Ethical Behaviour for the purpose of their attestation for acquiring life tenure and periodic performance reviews. On 23 February 2017 the SJC Plenum adopted the Regulation on the Indicators, the Methodology and the Procedure for Appraisal of a Judge, Chairperson and Deputy Chairperson of a Court (Protocol No. 7 of 23.02.2017). Under this regulation, compliance with the rules of ethical behaviour is provided as one of five general criteria to be taken into account in all types of attestation, including for acquiring life tenure and periodic appraisals. The indicators which need to be taken into account are: (i) the outcome of additional verifications of the asset declarations of judges undertaken by the SCJ Inspectorate (Art. 175h, para. 5, LOJ as amended);<sup>3</sup> (ii) outcome of integrity and conflict of interest checks, identification of acts breaching the prestige of the judiciary and checks related to violation of the independence of judges, as carried out by the SCJ Inspectorate:

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<sup>3</sup> Such checks require provision of all necessary information by the evaluated magistrate and collection of data about the balances and transfers of the bank accounts, about the financial instruments held by the magistrate and the transactions of financial instruments, as well as relevant information provided by the Ministry of Interior.

- (iii) opinion of the ethics committees to the relevant body of the judiciary, which includes an assessment of the recusals and self-recusals under the Administrative Procedure Code, Civil Procedure Code and Criminal Procedure Code.
32. GRECO notes from the outset that the authorities do not refer to the requirement to reduce the five-year term established for judges before acquiring life tenure, which is the subject-matter of the first part of its recommendation.
33. As to the second part of the recommendation, GRECO takes note of the adoption by the SCJ Plenum of the Regulation on the Indicators, the Methodology and the Procedure for Appraisal of a Judge, Chairperson and Deputy Chairperson of a Court in order to improve the appraisal of judges before they acquire life tenure, which includes indicators and standards concerning compliance of judges with the Code of Ethical Behaviour. It notes that the indicators include the additional check on asset declarations, conflicts of interest, and recusals in connection with the attestation for life tenure. Therefore, GRECO considers that the second part of the recommendation has been implemented.
34. GRECO concludes that recommendation vi has been partly implemented.
- Recommendation vii.
35. *GRECO recommended strengthening the integrity checks carried out in respect of candidates to the post of judge who are subject to initial appointment, with due regard being had to respect for their human rights and relevant European standards.*
36. The authorities state that, in addition to existing provisions, amendments to the Law on the Judiciary (LOJ), adopted on 27 July 2016, introduced rules to strengthen integrity checks for candidates to the post of magistrate (i.e. judges and prosecutors) subject to initial appointment: (i) candidates must fill out a questionnaire on their integrity merits (the model questionnaire is under preparation); (ii) the interview part of the competition must include questions on the Code of Ethical Behaviour for Bulgarian Magistrates (the relevant questionnaire has been adopted by the SJC); (iii) following their rating, candidates must submit to the SJC an asset declaration and conflict of interest declaration, and the Commission on Professional Ethics (CPE) of the SJC Judges College must provide all relevant information on the candidates' integrity merits to the college; (iv) the CPE must analyse the asset declaration, conflict of interest declaration and other documents on the candidates' integrity merits, and carry out further checks on the three highest rated candidates and draw up a reasoned opinion on the integrity of each candidate.
37. GRECO welcomes the additional rules to reinforce integrity checks on candidates to the post of judge who are subject to initial appointment, i.e. through external recruitment, which meet the objectives set by the recommendation of developing testing tools to ascertain candidates' integrity at recruitment stage and allowing for more comprehensive checks by the SJC's specialised body, the CPE.
38. GRECO concludes that recommendation vii has been implemented satisfactorily.
- Recommendation viii.
39. *GRECO recommended that, in order to enhance the accountability, objectivity, transparency and uniformity of the recruitment and promotion procedures within the judiciary, objective and transparent criteria for evaluating a judge's compliance*



*with the Code of Ethical Behaviour for Bulgarian Magistrates be introduced in law both for attestation for acquiring life tenure and periodic performance reviews.*

40. The authorities indicate that the amendments to the LOJ, adopted on 27 July 2016, introduced the following rules aimed at improving the methodology for performance reviews and attestation of magistrates (i.e. judges and prosecutors) related to their integrity and ethical behaviour: (i) extraordinary and ad hoc appraisals; (ii) compliance with ethical behaviour rules as one of five basic criteria for magistrates' attestation; (iii) the adoption by the SJC of a regulation on the indicators, methodology and procedure for appraising judges. On 23 February 2017 the SJC Plenum adopted the Regulation on the Indicators, the Methodology and the Procedure for Appraisal of a Judge, Chairperson and Deputy Chairperson of a Court (see paragraph 31). This regulation sets out in detail the indicators and standards concerning compliance of judges with the Code of Ethical Behaviour for the purpose of their attestation for acquiring life tenure and periodic performance reviews.
41. GRECO takes notes of the steps taken to implement this recommendation. As to the setting out by regulation of the indicators, methodology and procedure for appraising judges, GRECO notes that SCJ Plenum adopted the Regulation on the Indicators, the Methodology and the Procedure for Appraisal of a Judge, Chairperson and Deputy Chairperson of a Court, which responds to the requirements of this recommendation.
42. GRECO concludes that recommendation viii has been implemented satisfactorily.  
Recommendation ix.
43. *GRECO recommended that the application of supplementary remuneration within the judiciary be subject to clear, objective and transparent criteria.*
44. The authorities confirms that the Rules for Determining and Disbursement of Supplementary Remuneration were adopted by the Supreme Judicial Council (Protocol No. 34 of the meeting held on 27 October 2011) and that these rules provide for clear, objective and transparent criteria for the payment of supplementary remuneration within the budget of the judiciary.
45. GRECO takes note of the information provided by the authorities. In its evaluation report adopted in March 2015, GRECO referred to a worrying practice whereby court presidents used discretion in awarding year-end bonuses to judges under them and to allegations that this had been used to secure loyalties in courts. It considered that, while pecuniary incentives motivated by exceptional performance were an acceptable practice, there was a need for adequate safeguards – such as clear, objective and transparent criteria – to avoid any undue influence on the way they are awarded. GRECO notes that the Rules for Determining and Disbursement of Supplementary Remuneration put forward by the authorities as providing for such safeguards appear to have been adopted by the SJC in 2011, i.e. well before the adoption of the evaluation report that raised the issue of risk of undue influence in granting supplementary remuneration to judges. GRECO is therefore not convinced that these rules are sufficient to address its recommendation, which is about application in practice.
46. GRECO concludes that recommendation ix has not been implemented.  
Recommendation x.
47. *GRECO recommended to ensure that the principle of random case allocation be implemented in practice, with due regard being had to a fair and equitable workload*

*for judges, and that the case assignment be protected from undue interference and subject to more stringent controls.*

48. The authorities state that, on 16 December 2015, the SJC adopted the Rules for Assessing the Workload of the Judges (hereafter, the Rules), which came into effect on 1 April 2016. They provide for objective indicators of the legal and factual complexity of court cases and establish the mode to determine the individual workload and limits of the normal workload of judges. The "System for Calculating of the Workload of Judges" was established on the basis of these Rules; it functions both autonomously (information on individual workload of judges, including the complexity of cases) and as a module integrated into the "Centralised System for Distribution of Cases" (taking into account the current workload of judges in the random allocation of cases). A new nomenclature of statistical codes of pending court cases was also adopted.
49. According to the authorities, through the "Centralised System for Distribution of Cases" and the "System for Calculating of the Workload of Judges", the absence of human interference is ensured both in the process of random allocation of cases and in the process of reporting the individual workloads taking into account the factual and legal complexity of different types of cases.
50. GRECO welcomes the adoption by the SJC of the "Rules for Assessing the Workload of Judges" as a way of optimising the "Centralised System for Distribution of Cases", to allow for a fair and equitable allocation of cases based on the principle of random case allocation.
51. GRECO concludes that recommendation x has been implemented satisfactorily.  
  
Recommendation xi.
52. *GRECO recommended that i) the integrity, conflicts of interest and corruption prevention component of the compulsory induction training provided to junior judges and judges subject to initial appointment be strengthened; and that ii) the professional in-service training on integrity, conflicts of interest and corruption prevention within the judiciary be prioritised and properly funded, and guidance and counselling on judicial ethics be made available to all judges.*
53. The authorities indicate that from 20 December 2016 to 31 January 2017 special online training of all 18 candidates for junior judges on the topic "Ethical challenges in the future work of candidates for junior magistrates" has taken place as part of the compulsory induction training.
54. They add that integrity, conflicts of interest and corruption prevention training for judges was included as strategic priority in the 2017 Annual Training Programme of the National Institute of Justice and the respective budgetary resources have been provided for this training. In addition to the online training on ethics and anticorruption provided for all judges, special attendance training sessions are envisaged for judges of the Supreme Court of Cassation and Supreme Administrative Court.
55. GRECO welcomes the introduction of compulsory online training for junior judges on ethical challenges from December 2016 to January 2017, and the fact that funding has been made available as a priority in 2017 for training on integrity, conflicts of interest and corrupt prevention for judges in addition to existing online training on ethics and anticorruption. That said, GRECO underlines that these efforts must be sustained through time and hopes that such will be the case beyond 2017. Moreover, the authorities have not provided information regarding the availability

of guidance and counselling on judicial ethics for all judges, which forms another part of the recommendation.

56. GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii.

57. *GRECO recommended i) carrying out an evaluation of the effectiveness of the system for supervision and enforcement of the integrity standards within the judiciary and of its impact on the prevention and detection of judicial misconduct and taking appropriate corrective action (e.g. revising the mandates of responsible oversight bodies, carrying out regular risks assessments, streamlining the case law of the Supreme Judicial Council in disciplinary matters, etc.); and ii) vesting the ethics commissions established in courts with the right to initiate disciplinary proceedings against judges.*
58. The authorities indicate that the Interim Parliamentary Committee on the Amendments to the Constitution, established on 28 May 2015 to prepare amendments dealing, *inter alia*, with the supervision and enforcement of integrity standards within the judiciary, considered the relevant European standards, including those of GRECO. With the amendments to the Constitution, adopted on 16 December 2015, the SJC Inspectorate has been empowered to carry out verifications of the integrity and conflicts of interest of judges, prosecutors and investigative magistrates, their asset declarations, and to ascertain actions undermining the prestige of the judiciary and violating its independence (Art. 132a, para. 6, Constitution).
59. They add that the necessary amendments to the LOJ aimed at introducing a new system of supervision and enforcement of integrity standards within the judiciary were discussed by the Council for Implementation of the Updated Strategy on the Reform of the Judicial System, established on 13 January 2016. Constitutional amendments related to the above-mentioned functions of the SJC Inspectorate were reflected in the amendments to the LOJ, subsequently adopted by the National Assembly on 31 March and 27 July 2016. These amendments provide for detailed regulations on the scope and procedure of checks over the asset declarations and conflicts of interest involving magistrates (i.e. judges and prosecutors).
60. On 13 December 2016 the SJC Judges College approved the Rules for the Organisation and Activities of the Ethics Commissions in Courts. Under Article 19 of the Rules, in case of breach of the Code of Ethics, the ethics commission in a court should notify the bodies authorised to initiate proceedings (i.e. the court president, the superior administrative head, the SJC Inspectorate and the Minister of Justice) and the SJC Judges College. The amendments to the LOJ give the SJC Judges College the power to impose disciplinary sanctions against judges.
61. GRECO welcomes the fact that an assessment of the effectiveness of the system for supervision and enforcement of the integrity standards within the judiciary was carried out and that amendments to the Constitution and the LOJ were passed to strengthen checks on judges regarding asset declarations, conflicts of interest, etc. Further to these reforms, the SJC Inspectorate is now empowered to carry out verifications of judges' integrity, asset declarations, conflicts of interest, etc. GRECO notes that ethics commissions in courts must report any suspected breaches to the SJC Judges College, which is empowered to impose disciplinary sanctions. This is in line with recommendation xii.
62. GRECO concludes that recommendation xii has been implemented satisfactorily.

Recommendation xiii.

63. *GRECO recommended ensuring that judges' private interests – irrespective of whether they are declared regularly or ad hoc – are subject to substantive and regular checks and that efficient co-operation is established between the authorities supervising judges' compliance with the rules on conflicts of interest and on asset disclosure, with due regard being had to the independence of judges.*
64. The authorities state that the above-mentioned constitutional amendments concerning the SJC Inspectorate (see paragraph 58) were aimed at creating an effective mechanism for preventing conflicts of interest of magistrates, including through substantive and regular checks of compliance with rules on conflicts of interest and asset disclosure. New powers of the SJC Inspectorate were introduced to carry out these verifications and establish actions undermining the reputation of the judiciary and those related to violations of the independence of magistrates (Art. 132a, para. 6, Constitution; Art. 54, para. 1(8), LOJ). In addition, two new sections were included in the LOJ, respectively on the verification of asset declarations (Art. 175a-175h, LOJ) and on the checks on integrity, conflicts of interest, actions damaging the judiciary's reputation, and breaches of the judiciary's independence (Art. 175i-175t, LOJ).
65. Since 1 January 2017, all magistrates (i.e. judges and prosecutors) have to submit a declaration of their assets and interests to the SJC Inspectorate. In addition to information on property and assets, declarations should contain details on: participation in commercial entities, management or control bodies of commercial entities and non-profit legal entities by the date of election or appointment and 12 months prior to this date; any contracts with persons carrying out activities in a field related to a magistrate's official powers or duties; and data on related persons when a magistrate has a private interest in relation to the activities of such persons (Art. 175b, para.1, items 11-13, LOJ). The SJC Inspectorate carries out checks on the authenticity of facts (Art. 175e, para.1, LOJ). The declaration has to be submitted: within one month after taking up office; annually before 15 May; within one month after leaving office; and within one month from the expiry of one year after leaving office (Art. 175c, para. 1, LOJ).
66. In addition, magistrates having a private interest on a particular occasion are to submit a declaration of conflict of interest to the SJC Inspectorate and suspend the execution of their powers with regard to the person or activity concerned. Where a law provides for special grounds for recusals and self-recusals, it takes precedence (Art. 175i, paras. 4-5, LOJ). Checks on conflicts of interest are initiated: following reports submitted by any person; on a request of the magistrate concerned; ex officio by the SJC Inspectorate when finding breaches of conflicts of interest rules; when an act of a magistrate is revoked owing to a breach of recusal rules (Art. 175l, para. 1, LOJ).
67. The amendments to the LOJ introduced rules to strengthen co-operation between the authorities supervising compliance with the rules on asset disclosure and conflicts of interest (new Art. 175e, paras. 1-7, and 175m, para. 3, LOJ), *inter alia*, the SJC Inspectorate has direct access to the electronic databases of central and local government authorities, the judicial authorities and other institutions, and can request additional information from these bodies, which must respond within a month. In addition, the SJC Inspectorate may require disclosure of data covered by bank and insurance secrecy as well as tax and social-insurance information.
68. GRECO takes note of the measures taken by the authorities to reinforce checks on private interests of judges through additional monitoring powers given to the SJC

Inspectorate, including through co-operation with other bodies to obtain additional information, and the requirement on judges to submit for control a declaration of assets and interests within a month after taking office, then every year and within one month after leaving office to the SJC Inspectorate. Further, judges are required to make ad hoc declarations of conflicts of interest if a private interest arises. The measures taken are in line with the requirements of the recommendation.

69. GRECO concludes that recommendation xiii has been implemented satisfactorily.

#### *Corruption prevention in respect of prosecutors*

Recommendation xiv.

70. *GRECO recommended that, in order to help the Supreme Judicial Council to fully assert its legitimacy and credibility and to strengthen its role as guarantor of the independence and autonomy of prosecutors, decisions on prosecutors' appointment, career, attestation and discipline should be taken by a composition of the Council that is made up of a majority of prosecutors.*
71. The authorities reiterate that the amendments to the Constitution adopted by the National Assembly on 16 December 2015 aimed at strengthening the integrity and independence of magistrates (see paragraph 26). These amendments changed the structure and the organisation of the SJC, including its division in judges and prosecutors colleges, and were reflected in the LOJ.
72. Prosecutors and investigative magistrates are appointed, promoted, demoted, transferred and released from office by the SJC Prosecutors College (Art. 129, para. 1, Constitution), which consists of the Prosecutor General, four members elected directly by the prosecutors, one member elected directly by the investigative magistrates, and five members elected by the National Assembly (Art. 130a, para. 4, Constitution; Art. 30, para. 4, LOJ). The SJC Prosecutors College has a number of powers with regard to the prosecutors and investigative magistrates (Art. 130a, para. 5, Constitution; Art. 30, para. 5, LOJ), including to appoint, promote, transfer and release from office; to carry out periodic and other appraisals of prosecutors and address matters concerning the acquisition and restoration of tenure; to impose the disciplinary sanctions of demotion and release from office; to appoint and release the administrative heads and the deputy administrative heads of prosecutorial offices with the exception of the Prosecutor General; and to take other decisions on the organisation of the activities of prosecutor offices. The Rules on the activities of the SJC Prosecutors College were approved on 15 June 2016 and published on the SJC's website.
73. GRECO takes note of the information provided by the authorities to the effect that there are now two specialised colleges within the SJC, one for judges (see paragraph 26) and one for prosecutors and investigative magistrates. This will allow to better take into account the specificities of courts and the prosecution, and avoid undue pressure of one judicial branch over the other in matters of career, as pointed out by GRECO in its evaluation report. Therefore, the measures taken are in line with GRECO's recommendation. That said, like for the Judges College (see paragraph 28), GRECO notes that, in addition to the Prosecutor General (who is appointed by the President on recommendation by the SJC), there are as many members elected by the National Assembly as prosecutors and investigative magistrates, which still leaves risks for undue pressure from the legislative over the judiciary, a concern that GRECO has underlined in its evaluation report.
74. GRECO concludes that recommendation xiv has been implemented satisfactorily.

Recommendation xv.

75. *GRECO recommended i) strengthening the integrity checks carried out in respect of candidates to the post of prosecutor who are subject to initial appointment, with due regard being had to respect for their human rights and relevant European standards; and ii) ensuring that periodic performance reviews and attestation for acquiring life tenure within the Prosecution Service are based on objective and transparent criteria for evaluating compliance with the Code of Ethical Behaviour for Bulgarian Magistrates established by law, and that a methodology for rigorous and in-depth evaluation of qualifications, integrity, ability and efficiency is put in place for the purposes of attesting that a prosecutor can be granted life tenure.*
76. The authorities describe the rules introduced by the amendments to the LOJ adopted on 27 July 2016 to strengthen the integrity checks on candidates to the post of magistrate, who are subject to initial appointment which applies equally to judges and prosecutors (see paragraph 36).
77. In addition, on 21 June 2016, the Commission on Professional Ethics (CPE) under the SJC Prosecutors College approved the Internal Rules of Organisation and Procedure which regulate in detail the procedure for drawing up opinions on integrity merits of candidates to the post of prosecutor. Under Article 20 of the Internal Rules, the SJC Prosecutors College's CPE conducts inquiries and collects information in order to prepare opinions on the candidates to the post of prosecutor.
78. Further, on 10 November 2016, the SJC Plenum approved the Questionnaire on the Code of Ethical Behaviour for Bulgarian Magistrates for the Competition Examinations of Junior Judges and Junior Prosecutors and for Initial Appointment in the Judiciary (Art. 184, para. 6, LOJ). The model questionnaire on the integrity merits for the candidates who participate in the competition for the post of junior magistrate, including junior prosecutor, or in the competition for initial appointment of magistrate, including prosecutors (Art. 181, para. 4, item 8, LOJ), is under preparation.
79. As to the second part of the recommendation, the authorities refer to the amendments to the LOJ adopted on 27 July 2016, which introduced the rules aimed at improving the methodology for performance reviews and attestation of magistrates, including prosecutors, related to their integrity and ethical behaviour and for the purpose of the attestation for acquiring life tenure (see paragraph 40). On 23 February 2017, the SCJ Plenum adopted the Regulation on the Indicators and Methodology for Appraisal and Criteria for Reporting the Workload of Prosecutors and Investigative Magistrates, Administrative Heads and their Deputies (Protocol No. 7 of 23.02.2017). Under this Regulation, compliance with the rules of ethical behaviour is provided as one of five general criteria to be taken into account in all types of attestation, including for acquiring life tenure and periodic appraisal. The indicators which must be taken into account in the assessment are (i) the outcome of verifications of the SJC Inspectorate on integrity and conflict of interest checks, identification of acts which breach the prestige of the judiciary and checks related to violation of the independence of the judiciary; (ii) the outcome of supplementary verifications carried out by the SJC Inspectorate verification of the assets declarations of magistrates in the assessment for acquisition of life tenure; (iii) opinions of the ethics committees on the compliance with the Code of Ethics of Bulgarian Magistrates.
80. GRECO takes notes of the steps taken towards the implementation of this recommendation when it comes to strengthening the integrity checks carried out in respect of candidates to the post of prosecutor who are subject to initial

appointment, and to ensuring that periodic performance reviews and attestation for acquiring life tenure within the Prosecution Service are based on objective and transparent criteria. It notes the adoption by the SCJ Plenum of a regulation containing the indicators, methodology and procedure for appraising prosecutors, including for the purpose of acquiring life tenure. GRECO therefore considers that both parts of the recommendation have been implemented.

81. GRECO concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

82. *GRECO recommended to ensure that the principle of random case allocation be implemented in practice, with due regard being had to a fair and equitable workload for prosecutors, and that the case assignment be protected from undue interference and subject to more stringent controls.*

83. The authorities state that the gradual introduction of the new module for random case allocation of "Unified Information System in the Prosecutor's Office", replacing the software "Lawchoice", has now been completed. The introduction of a special information system for automated measurement of workload and implementation of the random case allocation started on 15 October 2015. Reporting workload is currently based on the Rules for measurement of the workload of prosecutors' offices and individual workload of each prosecutor and investigative magistrate, as adopted by decision of the Supreme Judicial Council of 11 December 2014. Workload of administrative heads of prosecutor offices is also measured. Workload measurement data are kept in the "Unified Information System in the Prosecutor's Office".

84. GRECO welcomes the implementation of a system of random case allocation ("Unified Information System") within the prosecution service, combined with a system of automated measurement of workload of prosecutors. This responds to the concerns expressed by GRECO in its evaluation report whereby a significant part of cases were allocated directly by heads of prosecutor's offices and their deputies.

85. GRECO concludes that recommendation xvi has been implemented satisfactorily.

Recommendation xvii.

86. *GRECO recommended that the integrity, conflicts of interest and corruption prevention component of the compulsory induction training provided to junior prosecutors and prosecutors subject to initial appointment be strengthened and that guidance and counselling on judicial ethics be made available to all prosecutors.*

87. The authorities state that from 20 December 2016 to 31 January 2017 special online training of all 29 candidates for junior prosecutors on the topic "Ethical challenges in the future work of candidates for junior magistrates" has taken place in the framework of compulsory induction training.

88. Integrity, conflicts of interest and corruption prevention training of prosecutors was included as strategic priority in the 2017 Annual Training Programme of the National Institute of Justice and the respective budgetary resources have been provided for this training. In addition to the online training on ethics and anticorruption provided for all prosecutors, special attendance training sessions are envisaged for the prosecutors to the Supreme Court of Cassation and Supreme Administrative Court.

89. GRECO takes note of the positive developments regarding the induction training of junior prosecutors, which took place from 20 December 2016 and 31 January 2017, and on-going training for prosecutors in general, and the fact that it has been made a priority in the 2017 Annual Training Programme. That said, GRECO underlines that these efforts must be sustained through time and hopes that such will be the case beyond 2017. The authorities have not provided information regarding the availability of guidance and counselling on judicial ethics for all prosecutors, which is also part of the recommendation.
90. GRECO concludes that recommendation xvii has been partly implemented.  
Recommendation xviii.
91. *GRECO recommended vesting the ethics commissions established in prosecution offices with the right to initiate disciplinary proceedings against prosecutors.*
92. The authorities specify that the LOJ does not vest the ethics commissions established in the prosecution offices with the right to initiate directly disciplinary proceedings against prosecutors. On 14 December 2016, the SJC Prosecutors College approved Rules for the Organisation and Activities of the Ethics Commissions in the Prosecution Offices. Under Article 19 of the Rules, in case of breach of the Code of Ethics for the Bulgarian Magistrates, the ethics commission in prosecution offices should notify the bodies authorised by Article 312 LOJ (amended on 27 July 2016) to initiate disciplinary proceedings (i.e. the head of prosecution office, the superior administrative head, the SJC Inspectorate and the Minister of Justice) and the SJC Prosecutors College. The latter is empowered to impose disciplinary sanctions against prosecutors (Art. 311 LOJ, as amended).
93. GRECO takes note of the information and, in view of the structural changes made to the SJC and in particular the creation of the Prosecutors College (see paragraph 72) to deal specifically with the career of prosecutors. It notes that the ethics commissions in prosecutor's offices may initiate disciplinary proceedings against prosecutors, by reporting possible ethical breaches to the SJC Prosecutors College. Therefore, the requirements of the recommendation have been met.
94. GRECO concludes that recommendation xviii has been implemented satisfactorily.  
Recommendation xix.
95. *GRECO recommended ensuring that prosecutors' private interests – irrespective of whether they are declared regularly or ad hoc – are subject to substantive and regular checks and that efficient co-operation is established between the authorities supervising prosecutors' compliance with the rules on conflicts of interest and on asset disclosure.*
96. The authorities refer to the constitutional amendments of 16 December 2015 concerning the SJC Inspectorate aimed at creating an effective mechanism for preventing conflicts of interest involving magistrates, i.e. judges and prosecutors (see paragraph 64).
97. From 1 January 2017, as is the case for judges, prosecutors are expected to produce annual declarations of their assets and interests (including participation in commercial entities, the management or control bodies of commercial entities or non-profit legal entities by the date of election or appointment and 12 months prior to the date of election or appointment; any contracts with persons who carry out activities in a field related to the official powers or duties of the magistrate; and



data on related persons when the magistrate has a private interest in relation to the activities of such persons) to the SJC Inspectorate (see paragraph 65). The SJC Inspectorate carries out checks on the authenticity of the facts.

98. In addition, as for judges, any prosecutor who has a private interest on a particular occasion must submit a declaration of conflict of interest to the SJC Inspectorate and suspend the execution of their powers with regard to the person or activity concerned. Where a law provides for special grounds for recusals and self-recusals, the special law is applied (Art. 175i, paras. 4-5, LOJ). The checks on conflicts of interest are initiated: following report submitted by any person; on a request of the magistrate concerned; ex officio by the SJC Inspectorate when finding breaches of conflicts of interest rules; when an act of a magistrate is revoked because a breach of recusal rules (Art. 175l, para. 1, LOJ).
99. New rules have been introduced in 2016 to strengthen co-operation between authorities supervising prosecutors' compliance with the rules on asset disclosure and on conflicts of interest (see paragraph 67).
100. GRECO takes note of the measures taken by the authorities to reinforce checks on private interests of prosecutors, similarly to those of judges, through additional monitoring powers given to the SJC Inspectorate, including through co-operation with other public bodies to obtain additional information, and the requirement on prosecutors to submit for control a declaration of assets and interests within a month after taking office, then every year and within one month after leaving office to the SJC Inspectorate. Further, prosecutors are required to make ad hoc declarations of conflicts of interest if a private interest arises. While these rules have only recently started being implemented, they appear to provide a more robust framework to prevent private interests of prosecutors interfering with the exercise of their office.
101. GRECO concludes that recommendation xix has been implemented satisfactorily.

### III. CONCLUSIONS

102. In view of the foregoing, GRECO concludes that Bulgaria has implemented satisfactorily twelve of the nineteen recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, six have been partly implemented and one has not been implemented.
103. More specifically, recommendations i, ii, vii, viii, x, xii, xiii, xiv, xv, xvi, xviii and xix have been implemented satisfactorily, recommendations iii, iv, v, vi, xi and xvii have been partly implemented and recommendation ix has not been implemented.
104. As regards the legislative process, a framework has been created for the involvement of civil society in the legislative process with the setting up of the Public Council, within the National Assembly, composed of civil society representatives, to facilitate public consultation, as well as the requirement for MPs to substantiate their proposals for amendments. In addition, the timeline for the examination of draft laws has been extended so as to allow for more time for interested parties to engage in the examination of bills in parliamentary committees at first and second readings.
105. A procedure has been put in place to tackle breaches of ethical rules by MPs, with a parliamentary committee being able to impose sanctions in case of infringements. Further, an independent review into the prevention of conflicts of interest and verification of asset declaration of MPs has been carried out and has informed the

preparation of the draft Law on the Prevention of Corruption and Forfeiture of Illegal Assets on these two issues. However, this bill is still to be adopted.

106. Insofar as judges and prosecutors are concerned, Bulgaria has taken a number of steps to implement GRECO's recommendations, some of which have been completed whilst others are still in progress. The structure of the Supreme Judicial Council (SJC) has been modified through amendments to the Constitution with the creation of the Judges College and the Prosecutors College, as way of avoiding that one profession influences career-related decisions regarding the other. That said, it is to be regretted that representatives elected by the National Assembly are members of both colleges and even more so that their number equals that of elected judges and prosecutors in both colleges, preventing the elimination of any risk of undue political influence on the careers of judges and prosecutors.
107. As to integrity checks of judges and prosecutors, additional rules have been laid down, with practical tools and methodology being finalised. Further, additional checks have been introduced, in particular through regular asset declarations. The principle of random case allocation has been put in place in respect of both judges and prosecutors. Steps have been taken to strengthen both initial and on-going training of judges and prosecutors on corruption matters. An assessment of the effectiveness of the supervision and enforcement of integrity standards of the judiciary has been undertaken, and the SJC Inspectorate has been given additional powers of verifications over judges' and prosecutors' asset declarations and conflict of interest declarations, with the Judges College and Prosecutors College being able to undertake disciplinary proceedings. Some steps remain nonetheless to be taken and, for instance, the five-year term before judges acquiring life tenure needs to be significantly reduced.
108. In view of the above, GRECO notes that further significant material progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. GRECO invites the Head of delegation of Bulgaria to submit additional information regarding the implementation of recommendations iii, iv, v, vi, ix, xi and xvii by 31 December 2018.
109. Finally, GRECO invites the authorities of Bulgaria to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.