



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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

18 October 2017

GrecoRC4(2017)14

FOURTH EVALUATION ROUND

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

COMPLIANCE REPORT

MONTENEGRO

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

F
O
U
R
T
H

E
V
A
L
U
A
T
I
O
N

R
O
U
N
D

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Montenegro to implement the recommendations issued in the Fourth Round Evaluation Report on Montenegro which was adopted at GRECO's 68th Plenary Meeting (19 June 2015) and made public on 26 August 2015, following authorisation by Montenegro ([Greco Eval IV Rep \(2014\) 6E](#)). 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 Montenegro submitted a Situation Report on measures taken to implement the recommendations. This report was received on 9 May 2017 and served, together with the information submitted subsequently, as a basis for the Compliance Report.
3. GRECO selected Albania and Lithuania to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Evgjani BASHARI, on behalf of Albania and Ms Živilė ŠADIANEC, on behalf of Lithuania. 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 pending 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 11 recommendations to Montenegro 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 ensuring there is a mechanism both to promote the Code of Ethics for parliamentarians and raise their awareness as regards the standards expected from them and enforcing such standards where necessary.*
7. The authorities of Montenegro report that the Parliamentary Committee on Human Rights and Freedoms is responsible for supervising the implementation of the Code of Ethics of MPs. Since the adoption of the Code in December 2014, the Committee has dealt with five complaints on improper behaviour of parliamentarians.
8. Moreover, the authorities indicate that the Committee has acted to promote the Code of Ethics and to raise awareness of MPs on standards of behaviour expected from them on a number of occasions and to a large extent within the framework of existing co-operation programmes with international organisations (Council of Europe, OSCE, EU etc.). Some of these workshops/discussions and seminars were held in Montenegro and some outside the country. The workshop "Ethics and conflict of interest" (Podgorica, March 2017) led to the establishment of guidelines for good practices for MPs, promoting the Code of Ethics for MPs and the provisions of the Law on Prevention of Corruption (LPC), relating, in particular, to conflicts of interest. The guidelines, which were adopted by the Anti-Corruption Committee of Parliament in March 2017, raise the awareness of ethical dilemmas and ways of resolving them (e.g. conflicts of interest during voting; accepting gifts; reporting on property;

relations with lobbyists, etc.). The authorities add that the Committee on Human Rights and Freedoms has decided to establish annual training for MPs on ethics and prevention of conflicts of interest in cooperation with the Agency for Prevention of Corruption to promote the Code of Ethics , its guidelines and other anti-corruption standards.

9. Furthermore, the authorities indicate that Parliament adopted its own integrity plan in 2016, identifying major risks areas. The Agency for Prevention of Corruption (established in 2016) monitors and analyses the implementation of integrity plans by various authorities, including the one established by Parliament, which has been included in the Annual activity report of the Agency for 2016. The authorities also report that 11 regional training events have taken place on, *inter alia*, awareness of and responsibilities of public authorities in the implementation of anticorruption laws. MPs attended some of these training events.
10. GRECO takes note of the information provided. The enforcement of the Code of Ethics is carried out by the Parliamentary Committee on Human Rights and Freedoms and it would appear that this Committee has dealt with a few cases. It is to be welcomed that guidelines have been developed explaining the ethics rules applying to MPs in greater detail together with practical examples. Moreover, GRECO appreciates the cooperation of the Agency for Prevention of Corruption with parliamentary committees. It is also positive that the Agency involves, albeit to a limited extent, parliamentarians in its activities. However, GRECO believes that Parliament itself ought to establish dedicated training on the Code of Ethics covering all members of Parliament on a regular basis. It would appear that such training is underway, but so far, Parliament, through its Committee on Human Rights and Freedoms has only contributed to a series of *ad hoc* activities
11. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

12. *GRECO recommends that a requirement of ad-hoc disclosure be introduced when a conflict emerges between the private interests of individual members of parliament and a matter under consideration in parliamentary proceedings.*
13. The authorities of Montenegro report that the Law on Prevention of Corruption (LPC) contains requirements for public officials to perform their functions in the public interest and to avoid conflicts of interests¹. The authorities specify, however, that MPs continue to be exempted from the requirement to declare any private interest during the decision making process². The authorities stress, however, that the Code of Ethics for MPs states that an MP shall act solely in the public/general interest while performing his/her duties and cannot act in his /her private interests, or in the interests of individuals or groups of individuals, with the purpose of obtaining direct or indirect benefits.
14. The authorities add that Guidelines for Good Practice of MPs, adopted on 15 March 2017 by the Anti-Corruption Committee of Parliament, stress the obligation of MPs to report conflicts of interest before participating in debates. Training materials are to be developed for the same purpose.

¹ Article 7 - "A conflict of interest in performing public function exists when the private interest of a public official affects or may affect the impartiality of public officials in the exercise of public functions".

² Article 8 - "The obligation of making a statement referred to in paragraph 1 of this Article shall not apply to MPs, councillors and public officials who are subject to the rules on exemption prescribed by a special law or other regulation"

15. GRECO notes that the Code of Ethics obliges members of Parliament to act in the public interest while performing their duties. That said, in a sudden situation of a conflict of interest, MPs are still under no obligation to report/declare these circumstances under the current legislation. It would also appear that there is no such requirement in the Code of Ethics for MPs. In such a situation GRECO finds it difficult to understand how the Guidelines for Good Practice of MPs can provide such a requirement. In these circumstances, this recommendation cannot be considered implemented, even partly.
16. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

17. *GRECO recommends that (i) appropriate measures are put in place to streamline the financial disclosure system with a view to ensuring its proportionality and effectiveness; (ii) the authority in charge of its supervision is adequately equipped to perform its tasks with respect to MPs, judges and prosecutors; (iii) tailor-made communication and advisory channels with the aforementioned professionals are further developed.*
18. The authorities of Montenegro report that the Agency for Prevention of Corruption (established in 2016), on the basis of the Annual plan of verification, which concerns a certain number and specific categories of officials, once a year checks and controls the reports on income and property of public officials³. All public officials who belong to a particular category (including MPs, judges and prosecutors) undergo control⁴. Financial disclosure reports can now be submitted electronically and they are available on the Agency's website⁵. The reports on received gifts, sponsorships and donations are also available on the Agency's website. A risk assessment methodology has been developed and is used in the verification process. The first phase of verification includes an initial software control (checking completeness and accuracy of the data submitted), followed by an administrative control (check by an authorised officer of the Agency) and a complete verification (processing and analysing all data submitted and the information on acquisition of property and sources of funding and comparing the information with databases of other authorities and organisations⁶).
19. The authorities also submit that 15 newly appointed members of parliament and councillors who failed to submit their asset declaration reports within the prescribed deadlines have been administratively sanctioned (fines and warnings); 21 persons were found guilty of violating the provisions on incompatibility, which has led to administrative sanctions (fines and warnings). Some officials have resigned as a result. By 30 September 2016, the Agency had carried out checks of asset declarations of all 485 judges and prosecutors, out of which 481 submitted accurate and complete information. In four remaining cases the Agency initiated proceedings suspecting incomplete/false data in the submitted reports. One judge was found guilty and was fined Euro 100. Two misdemeanour proceedings are pending before courts and one was terminated (with no violation found). By 30 September 2017, the Agency had checked the asset declarations of all 466 judges and prosecutors and concluded that all of them had submitted accurate and complete information.
20. Regarding the second part of the recommendation, the authorities report that the Agency's staffing capacity has been increased by five and that new internal units

³ See Article 30 (4) LPC

⁴ Article 42, Rules of Procedure of the Agency in terms of preventing conflicts of interest of public officials

⁵ www.antikorupcija.me; data is available in CSV format

⁶ Tax Administration, Real Estate Administration, Securities Commission, Ministry of Interior, Ministry of Transport and Maritime Affairs, commercial banks.

have been established.⁷ The latter include, *inter alia*, the Department for control of income and property of public officials and civil servants (in the Department for prevention of conflicts of interest and control of political parties' funding) and the Department of education, research, campaigns and analytics in the Department for prevention of corruption, integrity, advocacy and implementation of international standards. In total there are ten vacancies in the Agency⁸.

21. As regards the third part of the recommendation, the authorities indicate that the Agency established an Information System in February 2016, which includes application software, a platform for exchange of data with other state agencies and an Internet website. The platform provides direct access to data from the Tax Administration, the Real Estate Administration and the Ministry of the Interior. In accordance with the Plan for development of the Information System, connections will be established with the Central Register of Business Entities (CRBE), the Central Depository Agency (CDA) and the Securities Commission in 2017.
22. Furthermore, the authorities state that the Agency for Prevention of Corruption issued 185 opinions in response to requests from public officials, including 27 requests from MPs/councillors (in particular regarding performance of other tasks, membership in working bodies and associations, voting and decision making). The authorities specify that the Agency for Prevention of Corruption cooperates with competent parliamentary committees in the evaluation of candidates for public positions nominated by the Assembly (notably regarding dismissal from a public office).
23. GRECO takes note of the measures reported. The various parts of the recommendation have been addressed in a rather comprehensive manner and several of the actions taken are connected to more than one part of this recommendation. As far as the first part of the recommendation is concerned, GRECO welcomes the introduction of the e-declaration system and of electronic tools for processing and cross checking the information submitted in financial declarations. Moreover, it appreciates the development of a risk assessment methodology. Thus, the first part of the recommendation has been addressed adequately. Concerning the second part of the recommendation, GRECO welcomes the setting up of the Agency for the Prevention of Corruption as the new monitoring authority. It would appear that the Agency has been provided with considerably more staff than was the case with the previous Commission for the Prevention of Conflicts of Interest, as well as with modern tools and working methods. GRECO underlines that the maintenance of adequate resources is key for the proper operation of the institution. The second part of the recommendation has been implemented satisfactorily. Finally, as for the third part of the recommendation, GRECO welcomes the "platform" providing for enhanced exchange of data between the Agency and other state authorities for the monitoring. Moreover, GRECO also notes that the Agency has developed communication and consultation possibilities in the form of advice and opinions vis-à-vis officials obliged to submit financial disclosures. This addresses the concern raised in the third part of the recommendation. Although it is premature to fully assess the effectiveness of the new system in place, GRECO is of the opinion that the measures reported at this stage meet the requirements of this recommendation as a whole. Nevertheless, the authorities are encouraged to assess the effectiveness of the new structure once the system has been operational for a longer period of time.
24. GRECO concludes that recommendation iii has been implemented satisfactorily.

⁷ New Rules on internal organisation and job classification in the Agency (n° of the Ag: 00-245/5), adopted on 27 January 2017.

⁸ Department for prevention of conflicts of interest and control of financing of political parties (3); Department for prevention of corruption, integrity, advocacy and implementation of international standards (2); Department of Financial Affairs (2); Department of Human Resources and Legal Affairs (3).

Recommendation iv.

25. *GRECO recommends considering the introduction of guidelines containing clear and objective criteria to be applied when deciding on requests for lifting inviolability of parliamentarians.*
26. *The authorities of Montenegro report that since 2015, at the request of the Prosecutor's office, the Administrative Committee of Parliament proposed to approve the lifting of immunity in six specific cases⁹. Parliament adopted six decisions, including five decisions lifting the immunities of MPs and thus authorised the initiation of criminal proceedings. The one request not leading to the lifting of immunity was due to the fact that the MP had ended his mandate.*
27. *The authorities add that on 17 July 2017 the Administrative Committee of Parliament agreed on principle guidelines to be applied when deciding on requests for the lifting of inviolability immunity of MPs (in accordance with earlier practice applied in 2007): i) to approve such requests initiated by the state prosecutor; ii) to approve such requests when a defendant as a prosecutor assumes criminal prosecution; and iii) not to grant such requests when the defendant as a prosecutor takes over the criminal prosecution because the criminal charge was dismissed by the prosecutor due to the absence of grounded suspicion that a criminal offence was committed*
28. *GRECO notes that there have been some successful requests regarding the lifting of immunity in order to allow for the initiation of criminal proceedings against MPs since 2015. It welcomes that some principle criteria have been established at committee level that go in the direction that all requests for lifting the immunity of MPs, coming from a prosecutor should be granted and that this should also apply to private prosecutions as long as the state prosecutor has not taken a position in such a case that there is no grounded suspicion that a criminal offence has been committed.*
29. *GRECO concludes that recommendation iv has been implemented satisfactorily.*

Corruption prevention in respect of judges

Recommendation v.

30. *GRECO recommended (i) taking additional measures to strengthen the Judicial Council's independence – both real and perceived – against undue political influence, including by abolishing the ex-officio participation of the Minister of Justice in the Council, by providing for no less than half of the Council's membership to be composed of judges who are elected by their peers and by ensuring that the presiding function is given to one of those judicial members; (ii) establishing objective and measurable selection criteria for non-judicial members which would endorse their professional qualities and impartiality; and (iii) setting in place operational arrangements to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the Judicial Council.*
31. *The authorities state that the Judicial Council operates in accordance with the law and that it has not received any misgivings concerning its current functioning. Concerning the first part of the recommendation, the authorities of Montenegro refer to the Constitution, as it was amended in 2013¹⁰, providing for the *ex officio**

⁹ From 1 July until 31 December 2015, the Administrative Committee proposed that Parliament adopt decisions regarding the cases involving S. Radunovica, Member of Parliament (MP), MP M. Knezevic, MP M. Dukanovic, MP R. Asanovic and MP A. Mandic.

¹⁰ Amendment VIII to the Constitution of Montenegro, published in the official gazette of Montenegro, N° 38/13, 2 August 2013.

membership of the Minister of Justice, four judges selected by the Conference of Judges, the President of the Supreme Court (*ex officio* member) and four prominent lawyers selected by Parliament. They stress that the President of the Council is to be elected among the members who are not holders of judicial office (cannot be the Minister), by a two-thirds majority of members of the Judicial Council (a system that was well received by the Venice Commission when it was proposed¹¹). Finally the authorities argue that half of the members of the Judicial Council are judges.

32. As regards the second part of the recommendation, the authorities indicate that Article 16 of the Law on the Judicial Council and Judges (LJCJ) specifies criteria for the election of the non-judicial members. "Eminent lawyers" need to have at least fifteen years of experience "in legal affairs" and "personal and professional reputation". Moreover these persons may not have been subject to criminal convictions. The election of the members from among eminent lawyers is preceded by an open call, announced by "the competent working body of Parliament" in the Official Gazette of Montenegro, at least in one of the national print media and on the website of Parliament.
33. Regarding the third part of the recommendation, the authorities report that the President of the Council takes care of the organisation and the legality of work of the Judicial Council, i.e. determines the duties and tasks of the members of the Council, thereby taking into account the equal distribution of the tasks to be dealt with.
34. GRECO takes note of the information provided, which indicates that no regulatory changes have occurred in the Constitution or legislation, nor in practice, affecting the current recommendation. The composition of the Judicial Council remains the same as it was when the recommendation was issued (part i), additional selection criteria for the non-judicial members of the Council have not been established (part ii) and operational arrangements for the various functions of the Judicial Council have not been put in place (part iii). The information put forward in the current report was already known at the time of the adoption of the Evaluation Report.
35. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

36. *GRECO recommended significantly strengthening and further developing mechanisms to provide guidance and counselling on ethics and the prevention of conflicts of interest for judges.*
37. The authorities of Montenegro refer to the Law on Prevention of Corruption (LPC), which entered into force on 1 January 2016. It stipulates that the Agency for Prevention of Corruption is now responsible for monitoring the adoption and implementation of integrity plans in various authorities. All authorities in the field of the judiciary have adopted integrity plans, i.e. 26 courts and the Judicial Council. These integrity plans, which are publicly available on-line on the website of the Training Centre for Judiciary and Public Prosecution, identify risk areas (including conflicts of interests, accepting illegal gifts or benefits, violations of professional and ethical rules etc.) as well as measures to reduce or eliminate them.
38. Furthermore, the authorities report that guidelines on ethics and conflicts of interest for judges have been prepared within the framework of international cooperation¹² and been adopted by the authorities; they are available on-line. The Guidelines contain practical advice based on real life examples and dilemmas in order to facilitate

¹¹ Opinion by the Venice Commission: CDL-AD(2012)024

¹² Project against economic crime - EU funded Horizontal programme for Western Balkans and Turkey

the application of the Code of Judicial Ethics. In particular, it provides explanations on how to identify, avoid and report conflicts of interests.

39. Moreover, the authorities indicate that the Training Centre for Judiciary and Public Prosecution offers anti-corruption training for holders of the judicial function¹³ in the area of integrity and anti-corruption for judges and prosecutors. Training on ethics has been a regular part of the training programme for candidate judges and prosecutors since 2008. The authorities refer in particular to the following recent events:
- three courses on judicial integrity and ethics, attended by 29 judges (2015);
 - two day module on ethics and integrity, attended by 12 judges (2016);
 - two workshops on new system of professional appraisals and disciplinary responsibility attended by 48 judges and members of the Judicial Council;
 - training sessions on public relations and communication ;
 - training sessions on ethics in the framework of the training programme for candidate judges (30-31 March and 6-7 April 2017);
 - training session on management of courts, covering judicial ethics, attended by 25 court presidents (27-28 February 2017);
 - training session on European and international standards on ethics and disciplinary liability of judges (20-21 April 2017)¹⁴.
40. GRECO takes note of the information provided. Guidelines for judges on how to apply the Code of Judicial Ethics have been developed within the framework of international co-operation. The Training Centre for Judiciary and Public Prosecution has organised a number of training event for judges relating to ethics, including in cooperation with international organisations. It would appear that training of ethics has been a regular part of the preparatory and induction training of judges since long and that the number of additional courses has increased since 2015. In addition to these measures, GRECO notes that the Agency for Prevention of Corruption now plays a role as an advisor to judges on matters relating to their integrity through the provision of opinions at their requests as well as in the more general perspective of being in charge of the monitoring of public sector integrity plans, and declaration of assets. Taken together, these measures represent an improved situation since the adoption of the Evaluation Report. Furthermore, GRECO recalls that judges may also request advice on ethical dilemmas from the Judicial Council, the Commission for the Code of Ethics or the Agency for the Prevention of Corruption, as already noted in the Evaluation Report.
41. GRECO concludes that recommendation vi has been dealt with in a satisfactory manner.

Recommendation vii.

42. *GRECO recommended (i) further developing the disciplinary framework for judges with a view to strengthening its objectivity, proportionality and effectiveness; and (ii) publishing information on complaints received, disciplinary action taken and sanctions applied against judges, including possible dissemination of the relevant case-law, while respecting the anonymity of the persons concerned.*
43. The authorities of Montenegro report that the Judicial Council has analysed the legal provisions on disciplinary responsibility of judges and concluded that it appears difficult to initiate disciplinary proceedings in respect of serious disciplinary violations, which may result in dismissal. A working group, composed of Supreme Court judges,

¹³ The programme was designed by the UNDP in the framework of the UNDP-Norway project "Strengthening the capacity of the Montenegrin judiciary in the fight against corruption and organised crime".

¹⁴ In the framework of the EU/CoE Action "Accountability of the Judicial System"

has therefore been established to monitor the application of these provisions. The working group is to provide a proposal for amending the law in this respect.

44. As to the second part of the recommendation, the authorities report that all the decisions of the Commission for the Code of Ethics and of the Disciplinary Committee of the Judicial Council have been published on the website of the Judicial Council (sudovi.me). The information on complaints discussed at the meetings of the Council are contained in the minutes of the Council, which are also being made public.
45. GRECO notes that the issue raised in the first part of the recommendation has not been subject to any final consideration by the authorities. Concerning the second part of the recommendation, GRECO recalls that already at the time of the adoption of the Evaluation Report, there was a "legal requirement to publish disciplinary decisions on the website of the Judicial Council"¹⁵. GRECO recalls that what was missing was a systemic public track record on complaints received, on the types of misconduct, disciplinary action taken and sanctions applied against judges. The mere disclosure of minutes of the meetings where complaints have been discussed is not sufficient in this respect. GRECO also notes that no information has been provided regarding the dissemination of the case law on disciplinary matters. GRECO urges the authorities to take further action concerning both parts of the recommendation, possibly through the newly established working group referred to above.
46. GRECO concludes that recommendation vii has not been implemented.

Corruption prevention in respect of prosecutors

Recommendation viii.

47. *GRECO recommended setting in place operational arrangements to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the Prosecutorial Council.*
48. The authorities of Montenegro report that the Prosecutorial Council Commissions are set up for more efficient work of the Council and in the forming of the sub-commissions the law has to be followed as well as an equal distribution of tasks to avoid possible conflicts of interest. The Law on Public Prosecution Office (LPPO), as amended in February 2015, defines the composition of certain commissions of the Prosecutorial Council. The Law also specifies that the President of the Prosecutorial Council (the Prosecutor General) can only be a member of the Evaluation Commission. Moreover, certain commissions, including the Commission on promotion, are now composed of public prosecutors who are not members of the Prosecutorial Council. *The Commission for the Code of Prosecutorial Ethics* have a president and two members. The president is elected from among the members of the Prosecutorial Council who are not state prosecutors; one member is elected by the extended session of the Supreme State Prosecution Office from among the state prosecutors and one member is the president of the Association of State Prosecutors, in accordance with Article 21 LPPO. *The Evaluation Commission* shall be composed of the Supreme State Prosecutor and five members of the Prosecutorial Council, three of whom elected from among the state prosecutors and two from among eminent lawyers in accordance with Article 87 LPPO. *The Testing Commission* is consisting of three Prosecutorial Council members, two of whom from among state prosecutors and one from among eminent lawyers in accordance with Article 60 LPPO. *The Disciplinary Panel* shall comprise three members of the Prosecutorial Council, two of them from among the state prosecutors and one from among eminent lawyers, in accordance with Article 114 LPPO. *The Commission for Permanent Voluntary*

¹⁵ See para. 105, Evaluation Report

Allocation consist of a president who is a member of the Prosecutorial Council and members from among eminent lawyers and two elected from among the state prosecutors. *The Commission for normative activity* consists of a president and four members; the president is a member of the Prosecutorial Council who is also a representative of the Ministry of Justice, two members of the Prosecutorial Council and one member from the Public Prosecutor's Office who is not a member of the Prosecutorial Council and one secretary of the Prosecutor's Office. The authorities also submit that the composition of all commissions under the Prosecutorial Council is published on its website, with the name of each member.

49. GRECO takes note of the information provided. Already at the time of the adoption of the Evaluation Report, the amended version of the LPPO defined the compositions of certain commissions. GRECO recalls that the Evaluation Report is critical that, in principle, it is possible that the same member acts for different commissions in conflicting roles. GRECO notes that it would appear impossible not to have some members of the Council participating in several commissions, considering the number of members in relation to the number of commissions available. GRECO also notes that the authorities are aware of the importance of distributing the members in the various commissions in an equal way to avoid conflicts of interest. The authorities have clarified the memberships of the commissions, which is also publicly available on-line and some safeguards that exist in the law, e.g. that the Prosecutor General can only be a member of the Evaluation Commission and that the promotion commission is made up of members who are not members of the Prosecutorial Council. In view of these clarifications, GRECO sees no need to further pursue this particular issue.
50. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

Recommendation ix.

51. *GRECO recommended significantly strengthening and further developing mechanisms to provide guidance and counselling on ethics and the prevention of conflicts of interest for prosecutors.*
52. The authorities of Montenegro report that the Commission for the Code of Ethics for Prosecutors amended its rules of procedure, in 2015, in order to manage its work in compliance with the new Law on the Public Prosecutor's Office. The Commission is entitled to monitor the application of the Code of Ethics (which is publicly available on-line), to act on complaints submitted as well as *ex officio*, and to provide opinions on whether certain behaviour of a prosecutor is in compliance with the Code of Ethics. In case of a violation, it is for the Prosecutorial Council to take over and proceed with the disciplinary proceedings on the basis of a proposal from the Commission. The Commission carried out seven meetings in 2015 and six in 2016 and it found in at least one case, in 2016, a violation of the Code of Ethics.
53. The authorities also submit that the Commission for the Code of Ethics has cooperated with the Prosecutorial Council on different issues relating to the Code of Ethics, e.g. analysed data and prepared a pamphlet on the Code of Ethics, explaining its content and relating procedures. The pamphlet has been printed and distributed to the public. More information in this area and the findings of the Commission is available on the website of the Public Prosecutor's Office.
54. Furthermore, the authorities report that the Training Centre for Judiciary and Public Prosecution has provided training on ethics in its annual training programme since 2008. They also refer to the following recent training for prosecutors:

- three courses on judicial integrity and ethics, attended by 11 prosecutors (2015);
 - two day module on ethics and integrity, attended by 9 prosecutors (2016);
 - two workshops on new system of professional appraisals and disciplinary responsibility attended by 47 prosecutors and members of the Prosecutorial council;
 - training sessions on public relations and communication;
 - training sessions on ethics in the framework of the training programme for candidate prosecutors (30-31 March and 6-7 April 2017);
 - training session on European and international standards on ethics and disciplinary liability of prosecutors (20-21 April 2017)¹⁶.
55. The authorities furthermore indicate that, since the establishment (2016) of the Agency for Prevention of Corruption, it has provided advice to some 20 prosecutors - following their requests - on various matters concerning their conduct. The Agency also monitors the implementation of institutional integrity plans in various public offices, including the prosecutorial authorities, which have appointed integrity managers and identified risk areas (e.g. conflicts of interest, loss of public trust, exceeding and misuse of official powers).
56. Finally, the authorities report that Guidelines on ethics and conflicts of interest have been prepared for prosecutors, within the framework of international cooperation¹⁷. The guidelines are aimed at promoting the Code of Ethics for Prosecutors and raising awareness on ethical dilemmas, based on real life examples, and ways of resolving them by providing advice on how to deal with gift offers, assets declaration, conflicts of interest etc.
57. GRECO takes note of the information provided. Guidelines for prosecutors on how to apply the Code of Ethics have been developed within the framework of international co-operation. The Training Centre for Judiciary and Public Prosecution has organised a number of training events for prosecutors relating to ethics and it would appear that training of ethics has been a regular part of the preparatory and induction training of judges since long and that the number of additional courses has increased since 2015. It would also appear that the Commission for the Code of Ethics for prosecutors (under the Prosecutorial Council) has become more active in dealing with complaints against prosecutors for alleged violations of the Code of Ethics. In addition to these measures, GRECO notes that the Agency for Prevention of Corruption now plays a role as an advisor to prosecutors on matters relating to their integrity through the provision of opinions at their request, as well as in a more general perspective as being in charge of the monitoring of public sector integrity plans, including those of the prosecution service. Taken together, these measures represent an adequate response to the current recommendation.
58. GRECO concludes that recommendation ix has been dealt with in a satisfactory manner.
Recommendation x.
59. *GRECO recommended (i) further developing the disciplinary framework for prosecutors with a view to strengthening its objectivity, proportionality and effectiveness; and (ii) publishing information on complaints received, disciplinary action taken and sanctions applied against prosecutors, including possible dissemination of the relevant case-law, while respecting the anonymity of the persons concerned.*

¹⁶ In the framework of the EU/CoE Action "Accountability of the Judicial System"

¹⁷ Project against economic crime - EU funded Horizontal programme for Western Balkans and Turkey

60. The authorities of Montenegro recall that prosecutors are subject to disciplinary liability at three levels: minor, severe and more severe disciplinary offences. The "minor" offences concern violations of internal rules of procedure; "severe" violations include, *inter alia*, the use of the prosecutorial function for private gain, acceptance of gifts and failure to submit an assets declaration. The "more severe" disciplinary offences apply when a prosecutor is "convicted of an offence that makes him/her unworthy of the prosecutorial function" and when a prosecutor performs his/her functions "unprofessionally and unconsciously/improperly or carelessly".
61. The authorities report that the Law on State Prosecutor's Office was amended in 2015 in respect of the composition of the Disciplinary Panel; it now consists of members from the Prosecutorial Council, a non-prosecutor (President of the Panel) and two prosecutors, appointed by the Prosecutorial Council. The Prosecutor General cannot be a member. Furthermore, the authorities clarify that disciplinary proceedings concerning minor or severe offences are to be dealt with by the Disciplinary Panel, while the more severe offences come under the Prosecutorial Council. Any decision establishing a disciplinary violation can be appealed before a panel of judges of the Supreme Court.
62. As regards the second part of the recommendation, the authorities specify that the Public Prosecutor's Office publishes in its Annual report also the work of the Prosecutorial Council, containing information on disciplinary proceedings. The report respects the anonymity of the persons concerned. It is available online on the website of the Public Prosecutor's Office. The authorities indicate that, in the period between May 2015 and May 2017, five disciplinary cases were dealt with. In one of these cases a severe violation was found (concerning failure to submit data on property and income); however that case is currently pending before the Supreme Court panel of judges.
63. GRECO takes note of the information provided. With respect to the first part of the recommendation, it welcomes the members of the Disciplinary Panel now being appointed by the Prosecutorial Council on the proposal of its President and not by the Prosecutor General, as was criticised in the Evaluation Report. Moreover, even though the current system for disciplinary proceedings appears rather cumbersome and complex, as it includes three levels of disciplinary offences and two disciplinary bodies, GRECO is satisfied that the current rules have been modified and sufficiently explained. It is to be noted that decisions, whether from the Disciplinary Panel or the Prosecutorial Council, may be appealed to a panel of judges of the Supreme Court.
64. Concerning the second part of the recommendation, GRECO notes that the publication of information concerning disciplinary proceedings against prosecutors in the Annual Report of the Public Prosecutor's Office responds to a need for more transparency in this respect. However, these publications were already acknowledged in the Evaluation Report and this part of the recommendation would require a more systematic form of disclosure of details in a public record. It follows that this part of the recommendation has not been implemented.
65. GRECO concludes that recommendation x has been partly implemented.

Recommendation xi.

66. *GRECO recommended significantly increasing transparency of the work of the prosecution service, notably by (i) adopting a public communication strategy based on clear rules on how far the prosecution service can go in providing information to the public, and (ii) developing relevant training thereafter.*
67. As for the first part of the recommendation, the authorities of Montenegro report that a Strategy for public relations for 2016-2018 was adopted in 2015. It defines a

framework for continuous improvement and strengthening of both internal and external communication. Concrete steps for the implementation of the Strategy, including the planned activities, their deadlines and indicators are defined in an action plan, adopted in 2016. Moreover, the Supreme Public Prosecutor Office's instructions have been applied since January 2016. They stipulate that each Prosecutor's office should appoint a spokesperson required to answer questions from the public / media within three days. Moreover, the public prosecutor who conducted the investigation should disclose basic information to the media after the completion of investigations. A Guide on criminal procedure and development of communication skills as well as a manual on crisis communication have been prepared with international support. Every public prosecutor's office has a prosecutor who has passed the relevant training.

68. The authorities also indicate that the website of the Public Prosecutor's Office has been significantly upgraded, covering the activities of the institution (including confirmed indictments and confirmed plea agreements). The Public relations strategy, the data on spokespersons and the relevant guidance are accessible through the website. In addition, the Public Prosecutor's Office has organised meetings, contacts and co-operation with representatives of the media and non-governmental organisations.
69. Regarding the second part of the recommendation, the authorities indicate that in 2016 the Training Centre for Judiciary and Public Prosecution, conducted seven training sessions on public relations for spokespersons, public prosecutors and counsellors. The topics covered included, *inter alia*, access to information, protection of personal data and communication with the media. Moreover, the Public Prosecutor's Office organised, in cooperation with the Ministry of the Interior, joint conferences on the work of public prosecutors and the police in detecting, investigating and prosecuting crimes.
70. GRECO takes note of the information provided. It welcomes the adoption of a public communication strategy and the concrete actions taken for its implementation, including the establishment of regular communication with the media, civil society groups and the general public, which has considerably increased the overall transparency of the work of the prosecution service. The first part of the recommendation has thus been adequately addressed. GRECO also notes that a large number of relevant training activities have been organised, with the focus on how far the prosecution service can go in providing information to the public taking into account public interest and the protection of personal data. It follows that the second part of the recommendation has also been implemented.
71. GRECO concludes that recommendation xi has been implemented satisfactorily.

III. CONCLUSIONS

72. **In view of the foregoing, GRECO concludes that Montenegro has implemented satisfactorily or dealt with in a satisfactory manner six out of eleven recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, two have been partly implemented and three have not been implemented.
73. More specifically, recommendations iii, iv, vi, viii, ix and xi have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations i, and x have been partly implemented and recommendations ii, v and vii have not been implemented.
74. More generally, with respect to all categories under review, GRECO welcomes the measures taken to establish integrity plans for the public sector, including Parliament, the judiciary and the prosecution service. The measures taken to streamline the financial disclosure system, to provide resources to the competent oversight body and to improve communication and advisory channels on ethics with parliamentarians, judges and prosecutors are also to be welcomed.
75. With respect to members of parliament, GRECO commends the elaboration of guidelines to the Code of Ethics for MPs, but calls for further consolidation of the parliamentary oversight mechanism to enforce standards and to promote and raise awareness on the ethics of MPs. GRECO is hopeful that a requirement for ad-hoc disclosure of conflicts of interest for MPs will be established in the near future.
76. As regards judges, progress is observed when it comes to providing guidance and counselling on the application of the Judicial Code of Ethics and conflicts of interest. That said, GRECO is seriously concerned about the lack of progress in strengthening the independence of the Judicial Council and in reviewing the disciplinary framework for judges.
77. Concerning prosecutors, GRECO welcomes the measures taken to increase the general transparency of the Public Prosecutor's Office and to further develop the mechanisms of guidance and counselling on ethics for prosecutors. Moreover, despite progress, more should be done to improve the processing and disclosure of information concerning disciplinary proceedings and sanctions against prosecutors.
78. In view of the above, GRECO notes that significant progress is needed in the implementation of the recommendations contained in the Fourth Round Evaluation Report, to demonstrate that an acceptable level of compliance with the recommendations can be attained over the next 18 months. It encourages the country to pursue these efforts. GRECO, in accordance with Rule 31 revised paragraph 8.2, asks the Head of delegation of Montenegro to submit additional information regarding the implementation of the pending recommendations i, ii, v, vii, and x by 30 April 2019 at the latest.
79. Finally, GRECO invites the authorities of Montenegro to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make this translation public.