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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

INTERIM COMPLIANCE REPORT

UKRAINE

Adopted by GRECO at its 93rd Plenary Meeting
(Strasbourg, 20-24 March 2023)

I. INTRODUCTION

1. This interim compliance report assesses the measures taken by the authorities of Ukraine to implement the recommendations in the Fourth Round Evaluation Report on Ukraine (see paragraph 2) on "corruption prevention in respect of members of parliament, judges and prosecutors".
2. GRECO adopted the [Fourth Round Evaluation Report on Ukraine](#) at its 76th Plenary Meeting (23 June 2017) and it was made public on 8 August 2017, following authorisation by Ukraine. The corresponding [Compliance Report](#) was adopted by GRECO at its 84th Plenary Meeting (6 December 2019) and made public on 26 March 2020, following authorisation by Ukraine.
3. The [Second Compliance Report](#), adopted by GRECO at its 89th plenary meeting (29 November – 3 December 2021) and published on 28 April 2022, following the authorisation of Ukraine. GRECO concluded in that Report that the low level of compliance was "globally unsatisfactory" in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the Evaluation Report and requested the Head of delegation of Ukraine to provide a report on the progress in implementing the outstanding recommendations (ii-iv, iv-x, xii, xiv, xv, xvii-xix, and xxiii-xxxi). The report was received on 31 December 2022 and has served as the basis for this Interim Compliance Report.
4. GRECO selected Sweden (in respect of parliamentary assemblies) and Armenia (in respect of judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Monika OLSSON, on behalf of Sweden, and Ms Kristine GABUZYAN, on behalf of Armenia. They were assisted by GRECO's Secretariat in drawing up the *Interim* Compliance Report.
5. This [Interim Compliance Report](#) assesses the implementation of the recommendations still pending since adoption of the Second Compliance Report and offers an overall evaluation of the level of compliance of Ukraine with these recommendations.

II. ANALYSIS

6. It is recalled that GRECO addressed 31 recommendations to Ukraine in its Evaluation Report. In the Second Compliance Report, GRECO held that recommendations i, v, xi, xiii, xvi, xx, xxi, xxii and xxxi had been implemented satisfactorily, or dealt with in a satisfactory manner. Recommendations ii, iii, iv, vi, viii, x, xii, xiv, xv, xviii, xxiv, xxv, xxvii, and xxviii had been partly implemented. Recommendations vii, ix, xvii, xix, xxiii, xxvi, xxix and xxx had not been implemented. Compliance with the twenty-two outstanding recommendations is examined below.
7. The authorities of Ukraine explain that the Russian Federation's large-scale unprovoked and unjustified armed aggression has had an impact in many public governance reforms which were underway, including on the anti-corruption front.
8. At the same time, the authorities also underline their efforts (and commitment) to advance in implementing GRECO recommendations despite extremely critical conditions in the country. The [Anti-Corruption Strategy for 2021-2025](#) was adopted in June 2022. On that basis, the National Agency on Corruption Prevention (hereinafter, the National Agency) developed an Anti-Corruption Programme (hereinafter, SAP), which contains detailed measures to achieve the goals set by the aforementioned Strategy. The SAP was adopted by the Cabinet of Ministers on 4 March 2023.

9. Ukraine was granted European Union (EU) candidate status on 24 June 2022 subject to the condition that seven key steps be taken¹; a preliminary assessment of their implementation is to be made by the European Commission in spring 2023. On 3 February 2023, the Ukraine-EU Summit was held in Kyiv. The EU acknowledged the considerable efforts made by Ukraine in difficult times and encouraged the country over its membership application. With particular reference to corruption reforms, the EU particularly welcomed progress in ensuring the independent and effective operation of anti-corruption institutions². Notable action in this regard has taken place in the recent months including through the appointment of the Head of the Specialised Anti-Corruption Prosecutor's Office (SAPO), proactive and effective investigation of (high-level) corruption and building a track-record of successful prosecutions and convictions, and the launching of the competition for a new Director of the National Anti-Corruption Bureau (NABU)³.
10. The Council of Europe has confirmed its readiness to contribute to Ukraine's recovery process and to support the country in its EU integration path. To this end, it adopted, on 14 December 2022, a targeted [Action Plan for Ukraine "Resilience, Recovery and Reconstruction" \(2023-2026\)](#). It covers important priorities relevant for Ukraine's GRECO membership as well (e.g. further strengthening the structural independence of the judiciary and the public prosecution service, including by developing their respective self-governance bodies, supporting the Anti-Corruption Strategy and its implementation programme, enhancing the system of asset declaration, etc.).

Recommendation ii

11. *GRECO recommended that appropriate regulatory, institutional and operational measures be taken to ensure effective supervision of the existing financial declaration requirements, including, but not limited to the enactment of by-laws allowing the National Agency on Corruption Prevention to perform its verification tasks; the adoption of an objective lifestyle monitoring procedure; the introduction, without delay, of automated cross-checks of data and interoperability of databases, with due regard for privacy rights; and the institution of appeal channels for sanctions imposed.*
12. GRECO recalls that this recommendation was considered partly implemented in the Second Compliance Report. GRECO requested additional information on the efficiency of the verification system of asset declarations (given its recent introduction and the need to be tested in practice). Also, information was lacking on the available appeal channels for sanctions imposed.
13. The Ukrainian authorities provide statistics on the functioning of the financial declaration system and the action taken following infringements related to filing obligations. In 2021, the National Agency completed a comprehensive verification of 1 026 declarations and assessed that the non-declared/false information approximated more than 1 billion UAH (approximately 42 million USD as of 2021). Indications of corruption offences were detected in every third declaration coming under comprehensive verification; in particular, in the declarations of two judges of

¹ See [European Commission Opinion on Ukraine's application for membership in the European Union](#). The steps outlined recommend, *inter alia*, enacting and implementing legislation on selection and appointment procedures for judges of the Constitutional Court of Ukraine and functioning of the Court in line with the European Commission for Democracy through Law (Venice Commission) recommendations; further strengthening the fight against corruption and money-laundering; implementation of integrity vetting procedures for the candidates to the High Council of Justice and the re-establishment of the High Qualification Commission of Judges of Ukraine; adopting a media law in line with the EU audio-visual media services directive and strengthening of the independent media regulator; finalising the reform of the legal framework for national minorities and establishing effective implementation mechanisms.

² See [Joint statement following the 24th EU-Ukraine Summit](#).

³ The authorities report that the competition for the new Director of NABU should be completed within the next few months.

the Constitutional Court of Ukraine, two judges of higher courts, 19 members of parliament, three deputy heads of regional state administrations, 65 members of local councils. In 11 declarations unjustified assets for the total amount 84.8 million UAH (approximately 3 million USD as of 2021) were found. In 171 of the submitted declarations, there were indications of administrative offences related to corruption, in particular, by a judge of the Constitutional Court of Ukraine, a judge of the Supreme Court, two ministers, seven deputy ministers, 16 members of parliament, five deputy heads of regional state administrations, and 48 members of local councils. It is possible to appeal sanctions imposed for financial disclosure breaches in (administrative/criminal) court (Article 294 Code of Administrative Offences and Article 393 of Criminal Code, respectively).

14. Comprehensive verifications were conducted on the basis of: (i) high-ranking positions according to the established order of priority, which includes a list of high-ranking officials whose declarations must be verified first (669 declarations); (ii) claims by citizens and journalists (183 declarations); (iii) the results of risk analysis in declarations by digital tools (161 declarations); and (iv) the results of lifestyle monitoring (13 declarations). As for special verifications (in respect of persons highly exposed to corruption), the National Agency conducted 16 169 of them in 2021.
15. Following the large-scale armed aggression of the Russian Federation against Ukraine, a regime of martial law was imposed⁴. Due to the unprecedented scale of the fighting that took place (including in the digital space), public access to a number of State registers, including the register of financial declarations, was restricted in order to prevent unauthorised access and protect sensitive data⁵. During this period of martial law, the submission of declarations is optional and verifications by the National Agency have been paused. This is considered a temporary situation which has been strictly restricted by regulation to the state of war. Once this is over, it is foreseen that persons required to file financial reports would do so within three months and that verifications will re-start immediately. Moreover, in the context of Ukraine's integration to the EU (and the pre-condition to meet certain anti-corruption benchmarks), a draft legislative proposal has been tabled to relaunch mandatory financial disclosure and to "unfreeze" the powers of the National Agency regarding financial control.
16. Even so, the authorities stress that the National Agency continues to be proactive in this area – to the extent this is possible under the aforementioned conditions. It continues to implement its financial control in cases that are not subject to the restrictions imposed during the period of martial law, albeit this activity has decreased as compared to pre-war 2021 records. In 2022, 1 346 special verifications were conducted (against 16 169 special verifications in 2021, which is only 8% of last year's indicator). A total of 22 protocols were drawn up and sent to the court for untimely submission of a declaration by a public servant without valid reasons, seven of whom were found guilty by the court and brought to liability (292 protocols were drawn up in 2021).
17. Moreover, the National Agency is also seeking ways to improve the e-filing system, e.g. advanced search engines, simplification of and assistance in the e-filing process for correctness purposes, logical and arithmetic capabilities of the register, developing algorithms to better spot false information (particularly for high-risk positions), internal methodological recommendations for lifestyle monitoring, etc. The National Agency has also advocated for the extension of the list of reporting

⁴ Decree No. 64/2022 of the President of Ukraine on the Imposition of Martial Law in Ukraine, 24 February 2022.

⁵ Access is limited by the Decree No. 263/2033 of the Cabinet of Ministers of Ukraine on Some Issues of Ensuring the Functioning of Information and Communication Systems, Electronic Communication Systems, and Public Electronic Registers under Martial Law, 12 March 2022.

persons with the result that the officials of the largest State-owned company, Naftogaz, are now obliged to submit declarations⁶.

18. The authorities further inform that the lifestyle monitoring system functions stably and efficiently. The National Agency has referred several cases of illicit enrichment to the SAPO, as well as to specialised anti-corruption prosecutors, as appropriate.
19. GRECO acknowledges the tangible efforts made by Ukraine to better ensure effective supervision of the financial declaration regime and particularly values the proactive role played by the National Agency on this front. During the last years, concrete measures of both a regulatory and institutional nature have been developed, including through an automated system of checks. The efficiency of the system is enhanced through state-of-the-art software technology, the application of a lifestyle monitoring methodology, e-filing and streamlined declaration forms, etc.
20. The figures furnished by the authorities illustrate that, before the war of aggression against Ukraine commenced, the system was operational and had started delivering results. However, the declaration of martial law has put the financial reporting system and its supervision on hold. GRECO notes that the authorities have expressed their firm intention to re-establish the full operability of the system once the situation on the ground allows. For GRECO, financial disclosure is a key tool for anti-corruption purposes.
21. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii

22. *GRECO recommended ensuring that in practice, the National Anti-Corruption Bureau is granted proper and unhindered access a) to the complete asset declarations received by the National Agency on Corruption Prevention and b) in the framework of criminal proceedings started on the basis of such declarations, to all national and regional databases necessary for the proper scrutiny of asset declarations.*
23. It is recalled that this recommendation was partly implemented in the Second Compliance Report. The first part of the recommendation was deemed as effectively met; however, regarding the second part, GRECO noted that some difficulties remained regarding the NABU's direct access to the National Bank's database in respect of recipients' account numbers. GRECO considered that such access could be instrumental for cross-check processes.
24. The Ukrainian authorities indicate that regulatory amendments have followed through the adoption by the Board of the National Bank of Ukraine of Resolution No. 21 on Amendments to the Rules of Storage, Protection, Use and Disclosure of Bank Secrecy, which entered into force on 17 March 2023. The Annex to the aforementioned Resolution, which includes the form of providing information, now contains a corresponding column where recipients' account numbers are indicated, thereby facilitating NABU's access to the required details for swifter cross-checks and supervisory tasks.
25. NABU believes that the establishment of a centralised register of bank accounts would represent a major vehicle for anti-corruption purposes and would improve the efficiency of NABU's work. This is foreseen in legislation but has been paused for the

⁶According to the Law on Prevention of Corruption, the subjects of declaration are officials of legal entities under public law, while officials of legal entities under private law are not required to submit declarations. Pursuant to the recommendations of the National Agency, the Cabinet of Ministers of Ukraine approved a new version of Naftogaz Company's Charter, removing from it the provision that it is a legal entity under private law

time being because of security risks in the context of the ongoing war of aggression against Ukraine.

26. GRECO welcomes that the previous regulatory inconsistencies have now been resolved following the adoption by the Board of the National Bank of Ukraine of Resolution No. 21 on Amendments to the Rules of Storage, Protection, Use and Disclosure of Bank Secrecy, which entered into force on 17 March 2023. This aligns all applicable provisions in this area and, thus, unequivocally establish that NABU be provided with direct access to recipients' account numbers. With this move, all components of recommendation iii have been effectively met.
27. GRECO takes note of the view of NABU regarding the establishment of a centralised register of bank accounts and encourages the authorities to pursue their action in this respect.
28. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv

29. *GRECO recommended (i) further developing the rules applicable to the acceptance of gifts by members of parliament, judges and prosecutors, in particular, by lowering the threshold of acceptable gifts; providing for more precise definitions to ensure that they cover any benefits including those in kind; clarifying the concept of hospitalities which may be accepted; (ii) establishing internal procedures for the valuation and reporting of gifts and return of those that are unacceptable.*
30. It is recalled that this recommendation was partly implemented in the Second Compliance Report. The concept of hospitality had still not been clarified. Further, no measures had been taken to establish internal procedures for the valuation and reporting of gifts applicable to MPs and judges.
31. The Ukrainian authorities indicate that legislative amendments are underway to further regulate the receipt of gifts (including, *inter alia*, the clarification of the concept of hospitality)⁷. This issue is a specific output of the Anti-Corruption Strategy and its implementation programme (SAP). The National Agency undertook consultations with international and internal stakeholders, a public hearing was held, and a draft has been submitted to the Cabinet of Ministers and awaits adoption.
32. Regarding internal procedures for the valuation and reporting of gifts applicable to MPs and judges, no progress can be reported since the Second Compliance Report.
33. GRECO welcomes the drafting of legislative amendments to better regulate gifts and their receipt in order to prevent conflicts of interest and corruption. GRECO looks forward to the effective enactment of rules in this respect. No progress has been reported regarding the establishment of internal procedures for the valuation and reporting of gifts, and the return of those that are unacceptable.
34. GRECO concludes that recommendation iv remains partly implemented.

⁷ The Anti-Corruption Strategy establishes the following upgrades in respect of gifts: 1) the legislative definition of "other profit-generated activity" is introduced for the purposes of the law; 2) the list of the cases, which are not covered by the prohibition on gift acceptance, is detailed, and the related exceptions are better defined (in particular, regarding the applicable rules for the determination of the span of time during which a person is prohibited to make decisions or perform actions in favour of the person who gave the gift); 3) the regulation of the procedure instructing how to act in case of illegal benefit or a gift, *inter alia*, taking into account the way of their acceptance in non-material form, is improved; 4) the scope of the individuals who are under the restrictions, *inter alia*, on membership in the supervisory boards, other executive or control agencies, supervisor boards of the profit-generating organisation, is expanded.

Recommendation vi

35. *GRECO recommended ensuring that all legislative proposals are processed with an adequate level of transparency and consultation, notably by (i) safeguarding inclusiveness of parliamentary committee work both on paper and in practice, including through public consultations and expert hearings, as well as adequate timeframes; (ii) introducing precise rules regarding the fast-track legislative procedure in Parliament and ensuring that it is applied only in exceptional and duly justified circumstances.*
36. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. Some measures had been taken to enhance transparency, but practice remained inconsistent, including in the committees. The timeframes for considering draft legislation had not been increased. Finally, while some restrictions on the use of fast-track procedures had been introduced, it was not clear to what extent these restrictions limited the use of the fast-track legislative procedure to exceptional and duly justified circumstances.
37. The Ukrainian authorities reiterate that committees of the Verkhovna Rada (Parliament), under the relevant legislation, are obliged to build their work, in particular, on the principles of the rule of law, legality, publicity, planning, free discussion, and resolution of issues, and also to inform the public about their activities, particularly by publishing their work plan, schedule of meetings, adopted acts, minutes, transcripts of meetings and hearings and to post other information on the committee's official website. The authorities further highlight that digital governance is a reality in Ukraine and has enabled greater openness and inclusiveness of legislative work, e.g. system of electronic committees allowing for e-voting and the display of the results of the vote online, the development of websites and social media channels, the broadcasting of meetings via YouTube, etc. A Bill on Law-making is undergoing its first hearing in Parliament; it enhances the transparency of the legislative process.
38. As to evolving practice in this area, in order to actively interact with the society, the committees announce on their dedicated pages in Facebook the planned events and inform about the procedure of participation in them, as well as highlight up-to-date news on the results of such events. Meetings of committees and other events are held open with the obligatory involvement of developers and initiators of draft laws, representatives of relevant ministries and agencies, local self-government bodies and their associations, civil and international organisations, professionals, and experts of research institutes, as well as with the presence of accredited journalists and media representatives.
39. The authorities provide additional updates on specific examples of the work of some committees in this respect, particularly, those under the scope of the on-going USAID technical assistance project "Rada: Next Generation"⁸, including, the Committee on Humanitarian and Information Policy, the Committee of Environmental Policy and

⁸ The "Rada: Next Generation" project is aimed at improving the cooperation of the committees of the Verkhovna Rada with the Government and line ministries, performing control functions by the committees, strengthening the staff capacity of the secretariats of the committees. In addition, it helps to increase the level of publicity of the work of committees, involve the public and other stakeholders in the activities of committees, strengthen the interaction of committees with international partners. The project was in the early phases of implementation in February 2022 when the Russian military invaded Ukraine. The programme continues to deliver reports with recommendations on improving civil society engagement support to legal drafting, parliamentary research services, full policy cycle and post-legislative scrutiny. Responding to the outbreak of war, the programme is now also focusing on hybrid and online procedures and policy-making in conflict settings.

Natural Resources, and the Committee on Organisation of State Authorities, Local Self-Government, Regional Development and Urban Development.

40. Regarding the use of fast-track procedures, the authorities refer again to the provisions in place to limit them to the strict necessary: accelerated procedures cannot be applied for codes or laws containing more than 100 articles or paragraphs, and it can only follow with the majority of votes of MPs. The authorities further provide figures on the use of accelerated procedures from 1 January to 28 October 2022: with the reduction of the term of preparation for the second reading 76 laws have been adopted (for the same period of last year – 26 laws); with the reduction of the term of the introduction of alternative draft laws - 11 laws have been adopted (for the same period last year – 9 laws); until November 14, 2022, 160 laws were adopted immediately as a basis and in general (i.e. in one reading), including 28 laws on ratification and 13 laws on denunciation of international agreements of Ukraine.
41. The authorities underline that experience before the Russian war of aggression against Ukraine shows that the number of bills adopted through the accelerated procedure represents a substantial minority. Their increase in 2022 relates to the full-scale aggression of the Russian Federation against Ukraine and the need to respond quickly to the challenges the State faces. During this difficult period, the Verkhovna Rada has focused on the development and adoption of legislative acts that are relevant and urgent for the State during martial law, notably in the field of national security and defence, economic, social, legal, and humanitarian policy, education and science, ecology, conclusion of multilateral and bilateral international agreements and EU integration.
42. GRECO acknowledges the difficulty of assessing the regularity of legislative proceedings in times of emergency and war as is the reality for Ukraine since more than a year. The data provided by Ukraine confirms the positive trend that was reported in previous compliance reports: a continuous improvement of transparency and openness of committee work. However, it is not possible to ascertain from the information provided whether the involvement of experts and the carrying out of public hearings constitute a consolidated practice across the board and not only in certain committees. It would also appear that, since the beginning of the war of aggression against Ukraine, the amount of information on committee work has been restricted, and is in some cases completely absent, because of security concerns⁹.
43. No new development has been reported regarding the 30 day timeframe for a committee to consider draft legislation and recommend it to the plenary. In the Fourth Round Evaluation Report, GRECO considered this timeframe to be short, particularly where draft legislation is broad or concerns controversial matters. It does not appear from the information provided by the authorities that there has been any consideration of the adequacy of such a timeframe for enabling in-depth discussions of draft bills. In this connection, civil society remains critical: information on draft bills comes too late in the process to allow for a meaningful involvement of independent experts and the public at large (see footnote 9).
44. Regarding the use of fast-track legislative procedures, GRECO notes its relative increase to face the emergency arising from war times. GRECO understands that this increase was justified by the flexibility required to respond to evolving needs in a current volatile and high-risk environment. Still, once this difficult period is over, in GRECO's view, the limitations provided in law do not sufficiently guarantee that

⁹ According to research carried out by the NGO Chesno, which monitors parliamentary work, the transparency of committee work is still at variance, and has decreased because of the Russian war of aggression against Ukraine. Information on bills is provided late in the process; some committees only involve the public at the second reading stage of bills. See: <https://www.kyivpost.com/post/5677>

accelerated procedures are only applied in exceptional and duly justified circumstances. Rather than taking into consideration the length of a draft bill, the principle should be that when adopting decisions on issues of major importance for society (such as criminal justice or the fight against corruption), wide and substantive consultations are a key condition for adopting legislation.

45. GRECO concludes that recommendation vi remains partly implemented.

Recommendation vii

46. *GRECO recommended (i) that a code of conduct for members of Parliament be developed and adopted with the participation of MPs themselves and be made easily accessible to the public; and (ii) that it be coupled with detailed written guidance on its practical implementation (e.g. prevention of conflicts of interest when exercising the parliamentary function, ad-hoc disclosure and self-recusal possibilities with respect to specific conflict of interest situations, gifts and other advantages, third party contacts, etc.).*
47. It is recalled that this recommendation was not implemented in the Second Compliance Report: no code of ethics had been developed and no detailed guidance had been provided.
48. The Ukrainian authorities indicate that the development of provisions on ethics and conduct for parliamentarians is a specific output of the Anti-Corruption Strategy and its implementation programme (SAP). A draft code has been prepared by a working group of the Verkhovna Rada, which includes representatives of virtually all parliamentary factions and groups, with the assistance of the National Agency, and has been submitted to Parliament for its consideration (registration no. 8327). The draft Code defines principles and rules of MPs ethics, sanctions in case of breaches, monitoring committee, complaint process, appeal channels.
49. GRECO notes that a draft Code of Ethics is undergoing parliamentary discussion. In addition to ethical provisions, it also establishes monitoring and enforcement mechanisms. GRECO urges the authorities to proceed swiftly with the adoption of a Code of Ethics. The different initiatives presented along the years did not succeed and, at present, Ukraine remains one of the few GRECO member states not having in place such a code. Moreover, it will be important that detailed written guidance is developed regarding the practical implementation of the code, as per the second component of the recommendation.
50. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii

51. *GRECO recommended undertaking further appropriate measures to prevent circumvention of the restrictions of parliamentary members' engagement in entrepreneurial activities, not only in law, but also in practice.*
52. It is recalled that this recommendation was partly implemented in the Second Compliance Report. Some practical and legislative measures had been taken to better prevent violations of restrictions on entrepreneurial activities; however, GRECO lacked sufficient information to assess their effectiveness.
53. The Ukrainian authorities indicate that, in addition to the strict incompatibility regime set in law for parliamentarians (which was already recognised by GRECO in the Fourth Round Evaluation Report), the National Agency developed methodological guidance in October 2022 to enable a better understanding in-house of conflicts of interest related provisions. Furthermore, the National Agency developed in the autumn of

2022 a unique automated digital tool, based on the National Agency's experience with cross-checks of information in state registers. This tool provides for a "risk-rating" of declarations for possible detection of violations, including restrictions on part-time activities. It is essentially a set of rules for detecting inconsistencies between the information included in the declaration and the corresponding data contained in the relevant state registers to which the National Agency has direct access. In 2022, no violations of restrictions on entrepreneurial activities had been detected by the National Agency when performing its regular control on the basis of the aforementioned methodology.

54. GRECO welcomes the additional measures developed by the National Agency to prevent circumvention of the restrictions of parliamentary members' engagement in entrepreneurial activities. These include *inter alia* guidance and the refinement of monitoring procedures, which better enable the detection of inconsistencies in different registries and potential infringements regarding incompatibilities and, more generally, conflicts of interest.
55. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation ix

56. *GRECO recommended the introduction of rules on how members of Parliament engage with lobbyists and other third parties who seek to influence the legislative process.*
57. GRECO recalls that this recommendation was not implemented in the Second Compliance Report. None of the legislative initiatives on lobbying had materialised.
58. The Ukrainian authorities indicate that the development of law on lobbying is envisaged in the Anti-Corruption Strategy. A working group is in place since November 2021 to draft the required legislation; a representative of the National Agency is a member of this group. Work is already underway to carry out research on best practice on lobbying, including by looking at the experience developed in other countries. Likewise, working meetings and contacts have taken place through international interagency cooperation with, for example, Croatia, Serbia, and France.
59. GRECO takes note of the confirmed plans of the authorities, which have now crystallised in a commitment set in the Anti-Corruption Strategy, to adopt a law on lobbying. That said, the process is still at very early (research) stages.
60. GRECO concludes that recommendation ix remains not implemented.

Recommendation x

61. *GRECO recommended significantly strengthening the internal control mechanisms for integrity in Parliament so as to ensure independent, continuous and proactive monitoring and enforcement of the relevant rules. This clearly presupposes that a range of effective, proportionate and dissuasive sanctions be available.*
62. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. A new unit had been set up in the Secretariat of Parliament to enhance internal control mechanisms regarding integrity among parliamentarians. However, the internal parliamentary mechanism was limited to detecting and reporting anti-corruption violations, but did not provide for effective, proportionate, and dissuasive sanctions within Parliament.

63. The Ukrainian authorities explain that their approach to monitoring and enforcement of integrity rules in Parliament is built upon two axes: (i) internal control by the Division for the Prevention and Corruption (a specific unit set up in the Secretariat of Parliament after GRECO's evaluation) which detects and reports offences; and (ii) an external independent institution, the National Agency, that carries out supervision and assures that effective liability measures are implemented.
64. The authorities provide details on action following infringements of financial declaration requirements (see recommendation ii) and also refer to their experience in prosecuting high-level officials for corruption-related offences, including parliamentarians. A total of 72 verdicts have been issued by the High Anti-Corruption Court since 2019, out of which 39 are final convictions, including against members of parliament.
65. Moreover, since the Second Compliance Report was adopted, MPs of Ukraine were regularly deprived of their payments for violations of discipline (failure to participate in plenary and committee meetings). So, in March 2022, their number was 16 MPs, in April 2022 – 15, in May 2022 – 14, in June 2022 – 15, in July 2022 – 15, in August 2022 – 15, in September 2022 in 2022 – 15, in October 2022 – 16, respectively. In addition, in 2022, the Committee on Rules of Procedure, MP Ethics and Work Organisation Issues of the Verkhovna Rada of Ukraine recommended four MPs to be deprived of the right to participate in five plenary sessions for violating ethics; the parliament decided to deprive two of them of such a right.
66. GRECO notes that the Ukrainian authorities have opted for two types of control over parliamentarians, i.e. an internal control mechanism within Parliament itself (the Division for the Prevention and Corruption composed of technical officers of the House), and an external body, i.e. the National Agency. The National Agency has provided statistics as to the monitoring performed vis-à-vis parliamentarians, (notably, in respect of financial declarations – see recommendation ii for further details on this), and the referral of its findings to the court and other specialised anti-corruption prosecuting and adjudicating bodies for administrative or/and criminal liability to be established.
67. However, it would appear that the issue of effective sanctions for ethical breaches remains topical, particularly, in connection with the ongoing draft of a code of conduct. The Anti-Corruption Strategy recognises that the current rules of ethical conduct are not duly implemented and that additional mechanisms should be introduced to bring justice for their violations. In this connection, it would be key that the draft code of conduct in the pipeline makes clear reference to the applicable enforcement system and the available sanctions. GRECO looks forward to receiving further information in this respect.
68. GRECO concludes that recommendation x remains partly implemented.

Recommendation xii

69. *GRECO recommended developing efficient internal mechanisms to promote and raise awareness on integrity matters in Parliament, both on an individual basis (confidential counselling) and on an institutional level (training, institutional discussions on ethical issues, active involvement of leadership structures).*
70. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. GRECO requested additional information on consistent practice of training and confidential counselling provided to MPs on integrity matters.
71. The Ukrainian authorities have provided a long list of training sessions organised by the National Agency, in some instances in cooperation with the Division of Corruption

Prevention of the Verkhovna Rada, for parliamentarians on integrity and corruption prevention related topics, with a particular focus on managing conflicts of interest. In addition to this, on 11 August 2022, the Research Service of the Verkhovna Rada was created. Its tasks include, *inter alia*, professional training (improvement of qualifications) of MPs. To fulfil this task, it is expected that, in 2023, the Research Service will conduct training, master classes, special courses and seminars, including (but not restricted to) integrity matters. As for confidential counselling, the Division on Corruption Prevention had 38 of such consultations in 2022. Parliamentarians can also turn to the National Agency for confidential advice.

72. GRECO notes that the recommendation called for internal mechanisms to promote awareness on integrity matters in Parliament. The leading role on awareness-raising/guidance has been taken so far by the National Agency, which has shown a most dedicated action in this respect, sometimes in cooperation with the Division of Corruption Prevention within Parliament. The training sessions reported, as well as the guiding materials prepared in relation to conflicts of interest, are extensive. Taken together with the activities already reported in previous compliance reports, these measures constitute a consistent practice. It is expected that the newly created Research Service in Parliament will add to the training curricula of MPs, including on integrity matters. Likewise, internal channels for confidential counselling have been put in place and they are resorted to. Parliamentarians also have the possibility to turn to the National Agency for (external) confidential advice.
73. Once the Code of Conduct is developed, it would be important that, in addition to the important awareness-raising and advisory action carried out by the National Agency and the internal services of the Verkhovna Rada, there is also active involvement of leadership structures inside the House. This can further advance self-responsibility and corporative commitment towards an ethos of integrity in Parliament, a message that could well contribute to strengthening public trust in Parliament and its members. That said, the institutional mechanisms to promote and raise awareness on integrity matters in Parliament are in place and are working efficiently, as recommended.
74. GRECO concludes that recommendation xii has been dealt with in a satisfactory manner.

Corruption prevention in respect of judges

Recommendation xiv

75. *GRECO recommended that measures be taken to ensure the safety of judges to make them less vulnerable to external pressure and corruption.*
76. It is recalled that this recommendation was partly implemented in the Second Compliance Report. Rigorous measures had been taken to improve the safety of judges. However, the Court Security Service had not yet started to function in full capacity.
77. The Ukrainian authorities provide an update on the current state of affairs, as follows: today, 640 courts, bodies and institutions of the justice system are under the protection of the Court Security Service of Ukraine (hereinafter – Service) against 506 last year. This represents an 87% coverage. The remainder that needs to be secured is 91 courts and three other objects of the justice system, but this is hindered by the fact that parts of these structures are located in the territories occupied by the Russian Federation. At the same time, in March – September 2022, despite full-scale hostilities, the Service took 50 courts under guard. About 62% of the courts are under 24-hour security. As of 1 September 2022, the Service had 4 680

employees (4 200 in 2021), 85% of which are employees directly involved in performing tasks in courts.

78. After being taken under the protection of a court, body or institution of the justice system, the protection of the entire object is ensured together with all its premises, including utility ones. Depending on the situation, for the performance of its functions and tasks at the protected objects, the service organisation may involve the following types of duty: checkpoint and security post (internal and external); foot patrol, both inside the building and outside; a security post directly near the courtroom and in the courtroom itself; observation post (video surveillance).
79. The determination of the security services provided is based on the features of the object of protection (the number of buildings, the surrounding territory, the location, structural design, the number of courtrooms, the number of judges, participants in courtrooms and visitors). In case a court hearing has a public resonance and/or is accompanied by events with massive participation, rapid response units of the Service and, particularly, reserve groups may be involved in the performance of relevant security related tasks (e.g. observance of public order in the court, cessation of acts of disrespect for the court, protection of the premises, personal safety of judges and their family members, as well as other court employees, ensuring the security of participants in the court process, etc.).
80. The procedure for the admission of persons to courts provides that at the entrance to the premises of the objects of the justice system, checkpoints will be equipped with an automatic access control and management system, a stationary metal detector, an X-ray television introscope (if necessary), a cabin (room) for selective examination of persons, means of video surveillance, communication and by other means designed to detect prohibited items. Court visitors must be identified and present identification documents. Entry and exit to the buildings (premises) of objects of the justice system by persons who are not their employees are carried out only through the central entrances equipped with checkpoints (except for employees of emergency services in case of emergencies).
81. GRECO acknowledges the large scale measures taken by the authorities to ensure the security of court premises and the safety of judges. The only courts the security of which cannot be guaranteed by the Court Security Service are those which are located in the territories occupied by the Russian Federation. In these circumstances, GRECO concludes that recommendation xiv has been dealt with in a satisfactory manner.

Recommendation xv

82. *GRECO recommended (i) reviewing the need to reduce the number of bodies involved in the appointment of judges; (ii) defining more precisely the tasks and powers of the Public Council of Integrity, further ensuring that its composition reflects the diversity of society and strengthening the rules on conflicts of interest – including through the provision of an effective control mechanism.*
83. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. GRECO considered that the first component of the recommendation was formally met, given that the number of bodies involved in judicial appointments had been reduced. However, institutional deadlocks were persistent and posed practical risks to judicial independence. The second part of this recommendation had not been addressed at the time.
84. The Ukrainian authorities recall that, pursuant to legislation adopted in July 2021, the number of bodies involved in the appointment of judges has been reduced to two: the High Council of Justice (HCJ) - which main responsibilities include

appointments and dismissal of judges, and the High Qualification Commission of Judges (HQCJ) - which conducts selection procedures for new judges. The procedure for appointment of the HCJ was completed in January 2023¹⁰, while that of the HQCH is ongoing.

85. While no legislative changes have occurred regarding the Public Council of Integrity (PIC), the implementation programme of the Anti-corruption Strategy (SAP) foresees concrete changes in this respect, notably, by assuring decisive involvement of PIC in not only assessing integrity criteria during judicial appointment procedures, but also in discipline processes. Likewise, specific measures are envisaged to provide PIC with a Secretariat and ensure that it functions with adequate resources.
86. GRECO welcomes that the appointment of members of the High Council of Justice (HCJ) has now been completed. The appointment of the High Qualification Commission of Judges (HQCJ) is still ongoing. GRECO urges the HCJ (which is the body which formally appoints the members of the HQCJ) to finalise without delay the appointment process to the HQCJ. This is of critical significance given that the body which was previously responsible for judicial appointments was dissolved in 2019 and, as a result, the judiciary is currently seriously understaffed (there were some 2 000 vacancies at the time of dissolution of the former HQCJ that have not been filled ever since).
87. With respect to the second part of the recommendation regarding the PIC, the implementation programme of the new Anti-Corruption Strategy (SAP) foresees that its status be clarified, its role be expanded and strengthened, and its resources (human, technical and material) be secured. This is a positive development which nevertheless needs to materialise in practice. Nothing has been reported regarding the need to ensure that the composition of the PIC reflects the diversity of society and that the applicable rules on conflicts of interest are strengthened (including through the provision of an effective control mechanism), as also recommended by GRECO.
88. GRECO concludes that recommendation xv remains partly implemented.

Recommendation xvii

89. *GRECO recommended that periodic performance evaluation of judges is carried out by judges on the basis of pre-established, uniform, and objective criteria in relation to their daily work.*
90. It is recalled that this recommendation was not implemented in the Second Compliance Report given the lack of clear, uniform, and objective criteria for periodic evaluation of judges.
91. The authorities of Ukraine indicate that the HQCJ needs to be established for this recommendation to be implemented. The process of appointment is ongoing. On 20 December 2022, the Competition Commission identified qualified candidates and admitted them to the interview stage.

¹⁰ On 11-12 January 2023, during the XIX Extraordinary Congress of Judges of Ukraine, the last eight members of the High Council of Justice (HCJ) were elected by secret ballot. The Congress of Judges of Ukraine has filled its quota as part of the HCJ. The HCJ has been formed and its Chairman elected (the relevant decision was adopted by 15 votes). The newly elected members of the HCJ took the oath. On 19 January 2023, the first meeting of the newly established HCJ took place, during which the HCJ decided to support the SAP. On 23 January 2023, the HCJ decided to get on with the automated distribution of cases that were under consideration by dismissed members of the HCJ, as well as the distribution of cases (materials) received after 22 February 2022 (except for complaints about a judge's disciplinary misconduct and complaints on the decision to bring a judge or prosecutor to disciplinary responsibility), between active members.

92. GRECO takes note of the ongoing selection procedure for members of the HQCJ, which in turn is the body to establish the criteria for the evaluations of judges. Consequently, no such criteria have been established to date for the carrying out of performance appraisal of judges, which is the core of this recommendation.
93. GRECO concludes that recommendation xvii remains not implemented.

Recommendation xviii

94. *GRECO recommended ensuring that in all court proceedings any decisions on disqualification of a judge are taken without his/her participation and can be appealed.*
95. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. The procedure had been changed to include a judge from another court in such proceedings. However, the possibility for the judge, whose recusal had been requested, to participate in the examination of the recusal request remained a concern. In addition, the authorities had not provided information as to whether an appeal of the decision on recusal *per se* was possible.
96. The Ukrainian authorities refer to the arguments already presented in previous compliance reports, i.e. the applicable provisions under the Criminal Procedure Code, the Civil Procedure Code, the Administrative Procedure Code and the Code of Economic Procedure. As to appeal mechanisms, disqualification motions can be appealed only together with the judgment on the merits of the case. The authorities explain that enabling the possibility to appeal the decision recusal *per se* could entail significant risks of abuse of procedural rights and violation of the right to a fair trial which, in particular, provides for consideration of the case within a reasonable timeframe.
97. GRECO notes that nothing new has been reported in addition to what was already presented in the Second Compliance Report. No legislative changes have occurred since then.
98. GRECO furthermore notes that the Fourth Round Evaluation Report is very clear as to the course of action to be taken to meet recommendation xviii: (i) challenged judges should always be excluded from the decision regarding their disqualification or removal from particular proceedings in order to ensure objectivity and impartiality in the decision-making process; (ii) for the same reason, possibilities to appeal decisions on disqualification motions per se (separately from the possibility to appeal the judgement on the merits of the case already provided by law) need to be introduced.
99. GRECO concludes that recommendation xviii remains partly implemented.

Recommendation xix

100. *GRECO recommended defining disciplinary offences relating to judges' conduct more precisely, including by replacing the reference to "norms of judicial ethics and standards of conduct which ensure public trust in court" with clear and specific offences.*
101. It is recalled that this recommendation was not implemented in the Second Compliance Report: the issue of clarifying definitions of disciplinary offences still needed to be resolved.
102. The Ukrainian authorities indicate that the Anti-Corruption Strategy and its implementation programme (SAP) establish the development of a list of and grounds

for disciplinary responsibility of judges. Moreover, the working group created within the HCJ in April 2021 is active. On 27 July 2022, letters were sent to the heads of appeal courts with a request to express proposals regarding the need to change/clarify the grounds for disciplinary responsibility of judges, including special periods (war or state of emergency, pandemic, etc.) and best foreign practices. The responses are currently being processed.

103. GRECO takes note of the measures envisaged in the Anti-Corruption Strategy and its implementation programme regarding discipline on judges, as well as the ongoing preparatory work on this issue. However, this is all work in process and still at preliminary stages.
104. GRECO concludes that recommendation xix remains not implemented.

Corruption prevention in respect of prosecutors

Recommendation xxiii

105. *GRECO recommended amending the statutory composition of the Qualifications and Disciplinary Commission to ensure an absolute majority of prosecutorial practitioners elected by their peers.*
106. GRECO recalls that this recommendation was not implemented in the Second Compliance Report. It was noted that there appeared to be some legislative draft in the pipeline to address the core of this recommendation – to ensure that an absolute majority of the members of the self-governing body are prosecutors, elected by their peers. However, such a draft was at an incipient stage and had not reached Parliament.
107. The Ukrainian authorities explain that the law establishes that out of the 11 members of the self-governing body for prosecutors (hereinafter, the relevant body), five of them be prosecutors elected by their peers and the six other members be appointed by the Congress of Representatives of Legal Universities and Scientific Institutions, the Congress of Lawyers of Ukraine, and the Commissioner for Human Rights of the Verkhovna Rada.
108. Although legislation does not provide that the statutory composition of the relevant body consists of a majority of prosecutors elected by their peers, in practice, prosecutors have a predominant role in it. More particularly, the quota of prosecutors elected by their peers outweigh the quotas for lay members appointed by other entities. The law further provides that the chair of the relevant body must be elected exclusively from among prosecutors. In this connection, the law vests the chair with key attributions in the work of the relevant body (carrying out general management of work, determining the duties of other members, issuing orders and decisions on organisational and administrative documents)¹¹.
109. Moreover, the authorities point to the experience developed in recent years (in the bodies appointed in 2017 and 2021) showing that several lay members are also practicing prosecutors or former prosecutors. Therefore, at present seven out of the 11 members of the relevant body are indeed prosecutors.
110. The authorities fear that, in the light of the practice observed with the two most recent compositions of the relevant body, increasing the quota of prosecutors elected by their peers would break the required balance in the work of the relevant body as

¹¹ The chair's powers in the relevant body were enhanced following regulatory amendments in August 2021 (as per the new version of the Regulations of the Procedures of the Relevant Body).

it would give a dominant position to prosecutors with decisive decision-making powers. Such a model could be excessively corporatist.

111. The authorities also refer to a draft amendment to the Law on the Prosecutor's Office, which has been submitted to the Committee on Law Enforcement of the Verkhovna Rada and proposes to increase the number of prosecutors from five to nine (at the expense of the quotas of the Congress of Lawyers and the Commissioner for Human Rights of the Verkhovna Rada).
112. GRECO takes note of the information provided by the authorities. The statutory composition of the relevant body is the same as it was in the Fourth Round Evaluation Report. GRECO's recommendation clearly called for a change in the statutory composition of the relevant body so that it would ensure an absolute majority of prosecutorial practitioners elected by their peers. No legislative change has followed in this respect. GRECO notes that an amendment has been proposed to increase the number of prosecutors elected by their peers, but it is still at incipient status of discussion with Parliament.
113. GRECO concludes that recommendation xxiii remains not implemented.

Recommendation xxiv

114. *GRECO recommended regulating in more detail the promotion/career advancement of prosecutors so as to provide for uniform, transparent procedures based on precise, objective criteria, notably merit, and ensuring that any decisions on promotion/career advancement are reasoned and subject to appeal.*
115. It is recalled that this recommendation was partly implemented in the Second Compliance Report. GRECO welcomed the introduction of legislative and institutional measures to improve the system of transfers and promotions of prosecutors to ensure that they were transparent and merit based. However, the new system had just become operational and was being piloted on an interim basis for the selection of management-level prosecutors. It was also not clear whether all decisions on promotions and career advancement of prosecutors had to be reasoned.
116. The Ukrainian authorities now report on the adoption, in February 2022, of additional rules on the applicable procedures regarding the selection and promotion/career advancement of prosecutors, in order to ensure that they meet the criteria of clarity, objectivity, transparency and impartiality¹².
117. The selection of candidates and their appointment to the position of prosecutor includes, among other things, such stages as passing a qualification exam (anonymous testing and practical tasks), conducting a special background check, undergoing special training at the Training Centre for Prosecutors of Ukraine, running a competition for filling vacant positions of prosecutors based on the candidate rating. In particular, the purpose of conducting the specified qualification exam is to check the level of theoretical knowledge in the field of law, European standards in the field of human rights protection, level of state language proficiency, analytical abilities of candidates and practical skills.
118. The issue of the preparation for the exam is also detailed (including requirements for the development and approval of testing programs and practical tasks, test questions and model tasks of practical skills). The procedure for taking the exam and evaluating the indicators of the exam result, which is carried out according to a specially

¹² The relevant rules were prepared with the participation of the Prosecutor General and international organisations, i.e. the Office of the Council of Europe in Ukraine, the EU Advisory Mission in Ukraine (EUAM), the EU Project «Law-Justice» and the International Development Law Organization (IDLO).

developed methodology. The exam is recorded by using video and sound recording, and information about the results of the qualification exam and the place of the candidate for the position of a prosecutor in the ranking is publicly available and is posted on the official website of the relevant body.

119. Regarding promotion/career advancement, the relevant procedures include the performance of an anonymous written practical task, an integrity check and an interview. A methodology has been developed to provide for clear and objective criteria for evaluating the candidate (i.e. candidate's compliance with the requirements of professional level, experience, and moral criteria - business qualities and the criterion of readiness to exercise functions in a higher-level prosecutor's office, including based on the candidates' previous achievements).
120. The new rules also provide for the possibility to involve international observers in decision-making processes regarding promotion/career advancement of prosecutors. Such a possibility has indeed been used in practice. Notably, at the end of August-beginning of September 2022, two competitions for filling 43 vacant positions of prosecutors were successfully completed. In total, about 387 candidates took part in the competitions. International experts from the EU Project «Law-Justice» and the International Development Law Organization (IDLO) took an active part in facilitating the conduct of competitions. Their representatives monitored the candidates' performance of the anonymous practical task and ensured the conduct of integrity checks of the candidates. Based on the results of the two competitions and after the evaluation carried out in accordance with the evaluation methodology the rating tables of the candidates with the final assessments of the candidates were approved on 25 August 2022 and 2 September 2022, respectively. Subsequently, a submission was sent to the Prosecutor General on the appointment of the winners of the competitions to vacant positions in the Prosecutor General's Office. Further competitions to district prosecution offices are ongoing.
121. For management positions in the prosecution services (first deputy Prosecutor General, deputy Prosecutor General, head of the regional prosecutor's office, first deputy head of the regional prosecutor's office, deputy head of the regional prosecutor's office, head of the district prosecutor's office), the required procedures establish that the relevant persons be appointed on the recommendation of the Council of Prosecutors of Ukraine, according to evaluation criteria based on professional qualities, moral and business qualities, managerial and organisational abilities, work experience of candidates. During 2021-2022 the Council of Prosecutors of Ukraine issued 27 recommendations on the appointment of prosecutors to management-level positions.
122. The appointment of the head of a unit of the Prosecutor General's Office and the deputy head of a unit of the Prosecutor General's Office is carried out by the Prosecutor General without the recommendation of the Council of Prosecutors of Ukraine. The professional, moral, and business qualities of the candidates, as well as their managerial and organisational abilities and work experience, are taken into account in the relevant appointment.
123. The authorities also highlight that, in the summer of 2022, with the participation of international experts, an open competition for the head of the SAPO was completed. Such appointment was of critical importance since it fulfilled one of the recommendations that accompanied the granting of to the European Union candidate status to Ukraine. In the fall of 2022, a competition to fill eight vacant positions of prosecutors in the SAPO began, the progress of which is regularly reported [online](#). The competition commission includes eight representatives of the prosecutor's office

and three representatives of public organisations specialising in the fight against corruption¹³.

124. Finally, the authorities indicate that all decisions of the relevant body need to be motivated. Moreover, there are appeal mechanisms in place: internal before the relevant body, and external before the court.
125. GRECO welcomes the introduction of new rules on the selection and promotion/career advancement of prosecutors which are based on transparency and objectivity (merit-based) requirements. Moreover, it notes that all career-related decisions of the relevant body need to be reasoned. The law also provides for internal (before the relevant body) and external (before the court) appeal channels. Thus, all different components of recommendation xxiv have been met.
126. GRECO concludes that recommendation xxiv has been implemented satisfactorily.

Recommendation xxv

127. *GRECO recommended introducing by law periodic performance evaluation of prosecutors within the prosecution service – involving the self-governing bodies – on the basis of pre-established and objective criteria, while ensuring that prosecutors have adequate possibilities to contribute to the evaluation process.*
128. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. GRECO took note of the introduction of (temporary) regulations regarding periodic evaluation of prosecutors. It however noted that further work was ongoing to develop individual assessment systems for the quality of work of prosecutors. In addition, GRECO expressed doubts as to the plans to develop two parallel assessment systems (i.e. a system for evaluating the quality of prosecutors' work and another system of individual evaluation of the quality of prosecutors' work).
129. The Ukrainian authorities explain that the provisional regulation which was referred to in the Second Compliance Report was replaced, as of 1 January 2023, by a new Regulation on the System for Evaluating the Quality of Prosecutors' Work. The new rules cover the assessment of work of prosecutors at all levels, and include grounds and procedure for awarding bonus payments, based on the result of assessments (e.g., performance, management functions, participation in professional development activities, awards, presence or absence of disciplinary records, etc.). The assessment, which is carried out on an annual basis, will result in an appraisal of the quality of work (80%) and the identification of areas for professional development -which refer to training and proactivity (20%). The process consists of a self-assessment which is then discussed and agreed with the immediate supervisor and then brought to the attention of the senior manager. The Human Resources Units are also involved in this procedure. However, there is no involvement at all from the self-governing bodies. It is possible to appeal the results of the appraisal before an appeals commission. A testing phase of the new appraisal model already stated in the last quarter of 2022.
130. The authorities also report that the Prosecutor General's Office continues to work on the development of the system of individual evaluation of the quality of prosecutors' work.
131. GRECO takes note of the introduction of new regulations regarding periodic performance evaluation of prosecutors. The system is very new, and more experience is needed to ensure its adequacy and effectiveness. It appears to be based on pre-established and objective criteria. It also ensures that prosecutors themselves take

¹³ «Avtomaidan», «Transparency International», «Center for Combating Corruption».

an active role in the evaluation. It further provides for possibilities of appeal. However, it does not involve the self-governing bodies, as recommended.

132. Moreover, GRECO notes that a parallel regulatory framework for individual evaluation of the quality of prosecutors' work is ongoing. It has not yet been decided how it will function and which bodies will be involved. In the absence of more concrete details in this respect, GRECO remains doubtful as to the logic and expediency of having two parallel systems for performance evaluation of prosecutors.
133. GRECO concludes that recommendation xxv remains partly implemented.

Recommendation xxvi

134. *GRECO recommended introducing a system of random allocation of cases to individual prosecutors, based on strict and objective pre-established criteria including specialisation, and coupled with adequate safeguards – including stringent controls – against any possible manipulation of the system.*
135. It is recalled that this recommendation was not implemented in the Second Compliance Report. GRECO regretted the lack of tangible progress in the establishment of a system based on random allocation of cases.
136. The Ukrainian authorities do not add anything new to what was already reported in the Second Compliance Report.
137. GRECO concludes that recommendation xxvi remains not implemented.

Recommendation xxvii

138. *GRECO recommended (i) that the new code of ethics for prosecutors be complemented by illustrative guidelines (e.g. concerning conflicts of interest, gifts and other integrity-related matters) and (ii) that those documents be brought to the attention of all prosecutors and made public.*
139. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. GRECO called for further guidance on integrity matters (such as incompatibilities, etc) to be developed and compiled in a single document, and subsequently brought to the attention of all prosecutors and made public.
140. The Ukrainian authorities report on the adoption of a Commentary to the Code of Professional Ethics and Conduct of Prosecutors. The Commentary was approved by the decision of the Council of Prosecutors of Ukraine on 23 November 2022 and is available for public access on the website of the Prosecutor General's Office. The Commentary clarifies the content of the Code, article by article and covers, in particular, the issues of conflict of interests, gifts, declaration of assets, integrity, etc.; it also includes relevant illustrative guidelines.
141. In order to familiarise prosecutors of all levels with the document, the Commentary was sent to the structural divisions of the Prosecutor General's Office, as well as to regional and district prosecutor's offices. It was also sent to the Training Centre for its inclusion in training programmes and its use in training events.
142. GRECO is pleased to note that guidelines, complementing the Code of Ethics for prosecutors, have now been issued and that awareness-raising measures have been taken.
143. GRECO concludes that recommendation xxvii has been implemented satisfactorily.

Recommendation xxviii

144. *GRECO recommended (i) encouraging prosecutors in suitable ways to recuse themselves from a case whenever a potential bias appears; (ii) ensuring that any decisions on disqualification of a prosecutor can be appealed.*
145. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report. GRECO welcomed the adoption of new legislation setting out mandatory self-recusal of prosecutors in cases of conflicts of interest or other circumstances which may raise doubts to their procedural independence. However, the legal basis for appeal of recusal decisions had remained the same as at the time of the evaluation visit.
146. The Ukrainian authorities report that the possibility to appeal against recusal decisions is still not provided by law.
147. The Prosecutor General's Office, when providing information on the state of implementation of this Recommendation, draws attention to the fact that, in general, the rarity of cases of self-recusals by prosecutors may be explained by the peculiarities of national legal regulation because in most cases grounds for which prosecutors do not have the right to participate in criminal proceedings are identified at the stage of preparation of resolutions on the appointment of prosecutors on a specific case. That is, a prosecutor with a conflict of interest should not be admitted to criminal proceedings even at the appointment stage.
148. Since there has been no progress (appeal mechanisms for decisions on disqualification of a prosecutor are not yet in place), GRECO concludes that recommendation xxviii remains partly implemented.

Recommendation xxix

149. *GRECO recommended (i) defining disciplinary offences relating to prosecutors' conduct and compliance with ethical norms more precisely; (ii) extending the range of disciplinary sanctions available to ensure better proportionality and effectiveness.*
150. It is recalled that this recommendation was not implemented in the Second Compliance Report; no progress had been reported in this area. The explanation of the notion of "acts which discredit the title of a public prosecutor..." referred to by the authorities, had already been in place at the time of the adoption of the Evaluation Report. The grounds for disciplinary liability of prosecutors had not been clarified. No measures had been taken to address the second part of the recommendation.
151. The Ukrainian authorities report on the content of draft amendments to the Law on the Prosecutor's Office, which provide for a range of disciplinary offences and sanctions relating to prosecutors' conduct and compliance with ethical norms. The draft provides for a definition of such terms as «committing actions that discredit the rank of a prosecutor (...)» and «gross violation of the rules of prosecutorial ethics». It excludes the provisions on responsibility for violating the oath of the prosecutor. Further, the draft expands the list of disciplinary sanctions.
152. Gross violation of the rules of prosecutorial ethics in the draft law refers to the behaviour of a prosecutor that violates the Code of Professional Ethics and Conduct of Prosecutors, the requirements of legislation and the moral principles of public life, which form the standard of behaviour corresponding to his/her status, and which compromised the rank of an employee of the prosecutor's office, harmed his/her reputation and the authority of the prosecutor's office, caused a negative public response.

153. As for the additional sanctions proposed in the draft, these include warning; referral to the Training Centre for Prosecutors of Ukraine to undergo a training course, suspension from office during the course, and deprivation of the right to receive bonuses for one month; severe reprimand with deprivation of the right to receive bonuses for three months.
154. GRECO takes note of the draft legislative amendments defining disciplinary offences relating to prosecutors' conduct and extending the range of disciplinary sanctions available. The draft, however, is still at the early stages. It has not yet been submitted to the Verkhovna Rada for its consideration.
155. GRECO concludes that recommendation xxix remains not implemented.

Recommendation xxx

156. *GRECO recommended enhancing the efficiency of disciplinary proceedings by extending the limitation period, ensuring that proceedings can be launched also by the relevant self-governing bodies (which are not entrusted with decision-making in disciplinary proceedings) and heads of prosecution offices, and providing that appeals against disciplinary decisions can ultimately (after a possible internal procedure within the prosecution service) only be made to a court, both on substantive and procedural grounds.*
157. GRECO recalls that this recommendation was not implemented in the Second Compliance Report as the limitation period of one year had not been increased. The possibility for the relevant self-governing bodies and heads of prosecution offices to launch disciplinary proceedings was not provided by law. Similarly, although a legislative proposal was underway, the fact remained that there was no tangible output reviewing the system of appeal.
158. The authorities of Ukraine indicate that the draft amendment to the Law on the Prosecutor's Office, which was already underway at the time of the Second Compliance Report, is still in the hands of the Verkhovna Rada but its consideration has not advanced. It proposes to extend the limitation period to two years from the date of the offence, without taking into account the time of temporary incapacity for work or the prosecutor's stay on vacation. The authorities also provide updated figures on the number of disciplinary complaints from heads of prosecutors' offices for the period November 2021- end October 2022: a total of 228 complaints, of which 187 disciplinary proceedings were opened. The authorities indicated that, in point of fact, the heads of prosecutors' offices are among the most active complainants. Finally, the authorities reiterate that for any changes to appeal procedures to happen, a constitutional reform must take place, which is impossible at present under martial law.
159. GRECO notes that the situation is the same now as the one described in the Second Compliance Report. Notably, the limitation period is still one year; the draft amendments which were reported at the time of the Second Compliance Report are lingering in Parliament. No new information has been provided regarding the launching of disciplinary proceedings by the relevant self-governing bodies and heads of prosecution offices *ex officio*. Finally, the appeal procedure has not changed.
160. GRECO concludes that recommendation xxx remains not implemented.

III. CONCLUSIONS

161. In view of the foregoing, GRECO concludes that Ukraine has implemented satisfactorily or dealt with in a satisfactory manner fifteen out of the thirty-one

recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, nine have been partly implemented and seven have not been implemented.

162. More specifically, recommendations i, iii, v, viii, xi, xii, xiii, xiv, xvi, xx, xxi, xxii, xxiv, xxvii, and xxxi have been implemented satisfactorily, or dealt with in a satisfactory manner. Recommendations ii, iv, vi, vii, x, xv, xviii, xxv and xxviii had been partly implemented. Recommendations ix, xvii, xix, xxiii, xxvi, xxix and xxx had not been implemented.

As far as members of Parliament are concerned, a draft Code of Ethics is under discussion. It includes provisions on its monitoring and enforcement. Further adjustments are also underway regarding gifts and hospitality; an outstanding task is that of putting in place internal procedures for the valuation and reporting of gifts, and the return of those that are unacceptable. The National Agency on Corruption Prevention has been taking a pro-active approach in providing guidance and training for parliamentarians regarding their integrity-related obligations. It has also paid due attention to the practical challenge of parliamentarians circumventing the applicable restrictions in entrepreneurial activities by creating an automated tool which enables cross-checks of different registers and the detection of inconsistencies and potential infringements regarding incompatibilities and, more generally, conflicts of interest. A law on lobbying is yet to be adopted. Further efforts are underway regarding the openness of committee work in Parliament, and more generally, on transparency of law making, with a Bill currently undergoing its first hearing. Lastly, financial disclosure and the applicably supervisory machinery have been put on hold as a temporary exception.

163. As to the judiciary, GRECO acknowledges the significant efforts made by the authorities to ensure the safety of judges. No progress has been reported on introducing clear, uniform, and objective criteria for periodic evaluation of judges, and the judges are still allowed to take part in their own recusal proceedings, with no appeal avenues against recusal decisions. There are still no clear definitions of disciplinary offences relating to judges' conduct. The appointment of members of the High Council of Justice (HCJ) has now been completed, but that of the High Qualification Commission of Judges (HQCJ) is still ongoing. These appointments are key given the responsibilities of the HCJ and the HQCJ on recruitment, internal supervision, and very importantly, protecting the judiciary from undue influences. For that reason, GRECO urges the authorities to finalise the appointment of the HQCJ without further delay.
164. As regards prosecutors, GRECO particularly welcomes the introduction of new rules on the selection and promotion/career advancement of prosecutors which are based on transparency and objectivity (merit-based) requirements. The appointment of the Head of the Specialised Anti-Corruption Prosecutor's Office (SAPO) is a positive development. GRECO is also pleased that a Commentary to the Code of Professional Ethics and Conduct of Prosecutors has been issued. The composition of the self-governing prosecutorial body does not yet have an absolute majority of prosecutors elected by their peers. A system of random allocation of cases should be put in place as a safeguard against manipulation and undue influence. No legal provisions are in place to allow appeals against decisions concerning recusal of prosecutors. Amendments have been drafted to provide for precise definitions of prosecutors' disciplinary offences and a broader range of sanctions in case of misconduct, but they have not yet been adopted. More needs to be done to enhance the efficiency of disciplinary proceedings.
165. GRECO wishes to recognise the strong commitment shown by Ukraine in respect of GRECO's work at an extremely difficult time for this member State, following the war of aggression by the Russian Federation against Ukraine. Wartime has led to the

necessity of adopting martial law, a state of emergency and the adjustment of priorities. In such a context, it is remarkable that Ukraine has nevertheless continued its work to implement GRECO's recommendations. Even if work still lies ahead, as indicated in this report, Ukraine's timely submission of information to GRECO, as well as the progress reported, is to be commended.

166. In light of the foregoing, GRECO welcomes the progress reported by Ukraine and is pleased to conclude that the current level of compliance with the recommendations is no longer "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. It therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
167. Pursuant to paragraph 8.2 of Rule 31 of the Rules of Procedure, GRECO requests the Head of the Ukrainian delegation to provide a report regarding the action taken to implement the outstanding recommendations (namely, recommendations ii, iv, vi, vii, ix, x, xv, xvii, xviii, xix, xxiii, xxv, xxvi, xxviii, xxix and xxx) by 31 March 2024.
168. Finally, GRECO invites the authorities of Ukraine to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.