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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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

COMPLIANCE REPORT

REPUBLIC OF MOLDOVA

Adopted by GRECO at its 81st Plenary Meeting
(Strasbourg, 3-7 December 2018)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of the Republic of Moldova to implement the recommendations issued in the Fourth Round Evaluation Report which was adopted at GRECO's 72nd Plenary Meeting (1 July 2016) and made public on 5 July 2016, following authorisation by Moldova ([GrecoEval4Rep\(2016\)6-rev](#)). 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 the Republic of Moldova submitted a Situation Report on measures taken to implement the recommendations. This report was received on 31 January 2018 and served, together with additional information, submitted on 6 June and 30 September 2018, as a basis for the Compliance Report.
3. GRECO selected Azerbaijan and Portugal to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Kamal Jafarov, on behalf of Azerbaijan and Mr Daniel Marinho Pires, on behalf of Portugal. 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 18 recommendations to the Republic of Moldova 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 (i) that draft legislation, all amendments and all supporting documents as required by law are published in a timely manner and (ii) that adequate timeframes are followed to allow for meaningful public consultation and parliamentary debate, including by ensuring that the emergency procedure is applied only in exceptional and duly justified circumstances.*
7. Concerning the first part of the recommendation, the authorities of the Republic of Moldova report that, since the adoption of the Evaluation Report, all draft laws are published in a timely manner on the dedicated websites with accompanying documents and explanatory notes. These websites include a dedicated government portal containing government initiatives submitted to Parliament, accessible for public consultation and comments¹, the Ministry of Justice portal promoting transparency of the decision making process² and the dedicated Parliamentary webpage on registered draft laws³. The authorities specify that the parliamentary

¹ See <http://particip.gov.md/index.php?l=ro>

² See <http://www.justice.gov.md/category.php?l=ro&idc=182>; including information on Coordination process of public consultations; List of stakeholders interested in legislative process; Annual or trimestral programs on draft decisions under public consultation; Draft decisions submitted to coordination; Draft decisions submitted to the Government; The civil society proposals "de lege ferenda"; Annual reports, etc.

³ See for example:

website contains all draft laws passed to Parliament, with all amendments and related documents (incl. approval notices and reports of the standing committees) and information (incl. on authors, approval examination, adoption)⁴.

8. Moreover, the authorities indicate that Parliament has adopted the new Law on normative acts no. 100 of 22 December 2017, which entered into force on 12 July 2018. The law foresees new mechanisms of cooperation between public authorities and civil society representatives and other parties seeking to influence the legislative process, and covers the different stages, such as drafting, conciliation (agreement with other institutions), public debate and expertise⁵. The authorities add that a new unified e-legislation portal will be set up in 2019⁶, in order to further enhance transparency of the law-making process and to ensure the publication of all relevant data (incl. text and accompanying documents, authors, concept, public discussions etc.).
9. Regarding the second part of the recommendation, the authorities report that since the adoption of the Evaluation Report, only seven draft laws went through the urgent procedure. These were adopted by Parliament on 3 October 2016⁷, in order to meet the conditions and commitments of international organisations. In these cases the Government acted exceptionally and following specific requirements pursuant to Art. 106/1 of the Constitution. The Constitutional Court confirmed it in its decision n°77 from 12 October 2016. The authorities add that NGOs commented on 98 draft laws, out of 241 draft laws submitted to Parliament in 2017.
10. GRECO takes note of the information provided. It recalls that the reason for the current recommendation was the failure to comply with the requirement to publish additional compulsory documents (such as information notes or anti-corruption analysis), insufficient public consultation on draft laws (including in committee meetings) and the frequent use of the so called "urgent procedures" when adopting legislation. With respect to the first part of the recommendation, GRECO acknowledges that the adoption of the new Law on normative acts in view of systematisation of the law making process is a positive development. In particular, it requires an explanatory note to a draft law, regulates the procedure of public consultation and provision of various types of expertise / expert conclusions (including anti-corruption expertise, expertise on compliance with international standards, legal expertise etc.). The law provides also for the setting-up of a unified e-legislation portal for draft laws, which apparently will be operational only in 2019. However, it would appear that this portal will not include draft laws emanating from individual MPs. Based on the information provided, GRECO considers that some progress has been substantiated, through the new legislation. However, it would appear that adequate implementation of the legal framework is still a challenge and more is yet to come, e.g. a new web portal. It follows that the first part of the recommendation is partly implemented.
11. As far as the second part of the recommendation is concerned, while GRECO notes that, according to the authorities, since the adoption of the Evaluation Report, the emergency procedure has reportedly been used only in respect of seven laws,

<http://www.parliament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/language/en-US/Default.aspx>

⁴ <http://www.parliament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3983/language/en-US/Default.aspx>

⁵ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=373698&lang=2>

⁶ From 12 January 2019, i.e. after twelve months from publication of the Law in the Official Gazette

⁷ Law on bank recovery and resolution n° 232; Law on amending Law on National Bank, on Financial Institutions, Criminal Code, Labour Code etc. n° 233; Law on Central Securities Depository n° 234, Law on the issuance of state bonds for the execution by the Ministry of Finance of payment obligations derived from state guarantees n° 235, Law on amending the Law on State Budget for the year 2016 n° 236, Law on amending the Law on the State Social Insurance Budget n° 237, Law on the amendment of the Law on compulsory insurance funds n°238.

including the Law amending the Law on State budget for 2016 and the Law on the State Social Insurance Budget. However, it has come to the knowledge of GRECO that there is yet other legislation that was adopted at record speed recently. The laws of the package of tax initiatives and capital amnesty were approved by the Government on 25 July 2018 and the same day discussed in Parliament committees. The laws of the package were tabled in Parliament on 26 July 2018 and immediately adopted in the 1st and the 2nd readings, without any preliminary public discussion nor mandatory anti-corruption expertise⁸. GRECO is critically concerned about these developments. Although it would appear that NGOs are increasingly commenting on draft laws submitted to Parliament⁹ and there are more public debates and public hearings than in 2014, GRECO calls upon the authorities to pursue their efforts to systematically ensure that adequate timeframes are respected in practice, to allow meaningful public consultation and parliamentary debate, and to provide evidence to that end. So far, the second part of the recommendation has been partly implemented.

12. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

13. *GRECO recommended (i) adopting a code of conduct for members of Parliament and ensuring that the future code is made easily accessible to the public; (ii) establishing a suitable mechanism within Parliament, both to promote the code and raise awareness among its members on the standards expected of them, but also to enforce such standards where necessary.*
14. The authorities report that (as already noted in the Evaluation Report, see para. 32), the draft Law on a Code of Ethics and Conduct of Parliamentarians (no. 135 from 4 April 2016) was tabled in Parliament by a group of 14 MPs. The examination of the Bill is still pending¹⁰, but it has been subject to consultations of public authorities and standing committees of Parliament. The Standing Legal Committee for Appointments and Immunities has agreed to further submit the Bill to the Plenary of the Parliament for a first reading. The authorities recall that the Bill foresees mechanisms to promote the code and to raise awareness among MPs and the public as well as for enforcement provisions.
15. The authorities also indicate that, as there is no consensus in Parliament regarding the above mentioned draft Code, a parliamentary working group for the elaboration of the Code on Parliamentary Rules and Procedures was set up. On 2 November 2018, the working group submitted the draft Code to the Standing Bureau of Parliament. On 22 November 2018, the Parliament adopted the draft Code on Parliamentary Rules and Procedures in the first reading. The text reportedly contains provisions on parliamentary conduct and ethics (Chapter XXVI, Articles 327-348), including sanctions for non-compliance.
16. GRECO notes that the Bill on a draft Code of Conduct for MPs (tabled by a group of individual MPs) is still pending in Parliament, as was already the case when the Evaluation Report was adopted. The authorities have also referred to the draft Code on Parliamentary Rules and Procedures, adopted in the first reading in Parliament. GRECO is not in a position to assess its content at this stage and so under these circumstances, this recommendation cannot be considered as even partly implemented.

⁸ even though, according to the authorities, the Office for prevention and fight against money laundering sought for an international expertise.

⁹ NGOs provided comments on 98 draft laws out of 241 submitted to Parliament in 2017

¹⁰ <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3158/language/en-US/Default.aspx>

17. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

18. *GRECO recommended introducing rules for parliamentarians on how to interact with third parties seeking to influence the legislative process.*

19. The authorities report that the above mentioned draft Law on a Code of Ethics and Conduct of Parliamentarians, adopted in the first reading in Parliament, reportedly deals with the issue of lobbying; it would prohibit certain forms of lobbying of MPs. Such activities may also be criminally punishable.

20. GRECO takes note of the information provided, in particular that the draft Law on a Code of Ethics and Conduct of Parliamentarians (submitted by a group of individual MPs) has been adopted in the first reading in Parliament. GRECO is not in a position to assess its content at this stage.

21. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

22. *GRECO recommended ensuring a significantly more independent and effective control, by the National Integrity Commission, of compliance by members of Parliament, judges and prosecutors with the rules on conflicts of interest, incompatibilities, statements of personal interests and statements of income and property.*

23. The authorities report that the new Law on National Integrity Authority, no. 132, and the Law on Declaring assets and personal interests, no. 133, both of 16 June 2016, entered into force on 1 August 2016. The independence of the National Integrity Authority (NIA) has increased as compared with the previous Commission as it is not to be affiliated with political parties and movements, so its composition does not reflect the Parliamentary majority, as was the case before. The NIA is headed by a President, assisted by a Vice-president, both appointed by the President of the Republic upon proposal of the Integrity Council¹¹. The Integrity Council is composed of 7 members appointed for 5 years¹². The NIA's President and Vice-president were appointed in December 2017.

24. The authorities explain that the NIA is empowered in particular with exercising control of declarations on assets and personal interests; checking compliance on conflicts of interest, incompatibilities and restrictions; finding breaches of the legal system on assets and personal interests, on conflicts of interest, incompatibilities and restrictions; cooperating with other institutions, at both national and international level etc.

25. The authorities indicate that declarations on income and property and personal interests have been merged into one single declaration to be submitted electronically through a dedicated website¹³.

¹¹ Article 9 of the Law on National Integrity Authority n° 132 of 16 June 2016.

¹² 1 member is appointed by the Parliament, 1 – by Government, 1 – by Superior Council of Magistrates, 1 – by Superior Council of Prosecutors, 1 – by Congress of Local Authorities of Moldova, and 2 members are selected from Civil society by the Ministry of Justice, following a public hearing.

¹³ <http://ani.md/ro/node/62>. The on-line portal is fully operational and all declarants were expected to complete electronic declaration from 1 January to 31 March 2018.

26. Furthermore, the authorities add that the E-Integrity Information System, operational since 1 January 2018, comprises several modules, including the Electronic Register of Declarants and of persons who breach the rules of incompatibilities, as well as a module for online submission of statements of assets and personal interests¹⁴. From 24 November to 27 December 2017, the NIA carried out training sessions throughout the country to support the implementation of the E-integrity information system, following the Training Plan for the persons responsible for the collection of declarations of assets and personal interests. These training events focused on two main aspects: the completion of the Electronic Register of subjects of declaration of property and personal interests, and the online filing of declarations of property and personal interests by MPs, judges, prosecutors and other officials subject to declaration duties.
27. Moreover, the authorities indicate that Parliament approved the NIA's structure¹⁵ and the Integrity Council approved the Rules on Integrity Inspectors' appointment¹⁶. Following the first public contest and various tests, four integrity inspectors were appointed in June 2018 (out of 43 foreseen for the Integrity Inspectorate Unit). The authorities report that the NIA has adopted its internal rules; regulations on transparency of its decision-making process, structure and communication; methodology and regulations on reporting and control of assets and personal interests' declarations, conflicts of interests, incompatibilities and restrictions; regulation on whistle-blowers etc. In the period of 12 June – 20 November 2018, the newly appointed integrity inspectors examined 130 complaints, randomly distributed among them. They accomplished 85 reports, 17 findings, 31 contravention cases and lifted 3 mandates of local councillors.
28. GRECO takes note of the new legislation, establishing the National Integrity Authority (NIA), which replaced the National Integrity Commission. GRECO notes that the composition of the NIA is different from that of the old Commission and it would appear that its members are not to be selected on the basis of political belongings. Moreover, the integrity inspectors are to be independent, as being part of the civil service. GRECO also notes that NIA's competences have been expanded in comparison with those of the Commission. In particular, it can take administrative action in respect of late submissions or failure to submit asset declarations. GRECO also notes that the NIA started to operate, albeit with limited capacities. Despite these noticeable improvements, the fact that the NIA has just recently been set up cannot be ignored; its overall effectiveness in practice will have to be reassessed, once it has been operational for some time.
29. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

30. *GRECO recommended ensuring that the mechanism by which administrative sanctions are imposed for violations of the rules on conflicts of interest, incompatibilities, statements of personal interests and statements of income and property works effectively in practice, notably (i) by providing the National Integrity Commission with the authority to impose administrative sanctions and (ii) by*

¹⁴ The guidelines for collectors and subjects of declarations as well as the step-by-step video guideline on how to fulfil and submit the declaration can be downloaded on the official website of the NIA, see <http://www.ani.md/node/249>.

¹⁵ Decision n° 9 on the approval of the National Integrity Authority's structure. The decision foresees *inter alia* the setting up of a specialised subdivision responsible for controlling income, assets, personal interests, incompatibilities and restrictions of subjects of declaring income and personal interests.

See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=374277>

¹⁶ Decision n°2 on approval of the Rules on appointment of Integrity Inspectors of 21 February 2018, see <http://ani.md/ro/node/168>

increasing the limitation period applicable to the violations foreseen in the Contravention Code and clarifying its scope of application.

31. The authorities report that according to Article 19 of the Law on the National Integrity Authority, integrity inspectors are vested with the authority to establish and examine administrative misdemeanours (contraventions) and impose administrative actions. They deal in particular with contraventions provided for in art. 313⁴ (infringement of the legal regime of restrictions on public office or public dignity), 319¹ (hampering the activity of the National Integrity Authority) and 330² (breaching the rules of declaring property and personal interests) of the Contravention Code. In some situations, the integrity inspector's decision is subject to examination by a court of law. The authorities submit that administrative sanctions have been applied by NIA.
32. Regarding the second part of the recommendation the authorities report that, on 1 August 2016, the statute of limitation of three months foreseen in art. 30 of the Contravention Code was extended to one year, calculated from the time the violation of Contravention Code occurs until the final decision (judgment) on the contravention.
33. GRECO notes that the overall effectiveness in practice of NIA remains to be seen when this body has been operational for some time, as concluded under recommendation IV. The current recommendation focuses on two particular issues, namely the authority to impose administrative sanctions (i) and providing for a longer limitation period in respect of violations of the law (ii). In this respect, GRECO welcomes the NIA's extended power to impose administrative sanctions for various breaches of the Contravention Code, such as late submissions or failure to submit asset declarations, which has reportedly already been used. The first part of the recommendation has thus been addressed. As for the second part, GRECO welcomes the extension of the limitation period in the Contravention Code from three months to one year. This part has also been implemented.
34. GRECO concludes that recommendation v has been dealt with in a satisfactory manner.

Recommendation vi.

35. *GRECO recommended that determined measures be taken in order to ensure that the procedures for lifting parliamentary immunity do not hamper or prevent criminal investigations in respect of members of Parliament suspected of having committed corruption related offences.*
36. The authorities report that an initiative taken by 39 MPs to limit the current immunity of the members provided for in Article 70 of the Constitution, (draft Law no. 173, mentioned in para. 83 of the Evaluation Report) was rejected on 6 July 2016. Since then, no other measure has been taken on this matter and no application has been lodged by the Prosecutor General to lift parliamentary immunity. That said, the authorities recall the Constitutional Court decision No. 2 of 20 January 2015 (mentioned in the Evaluation Report) and state that there are no major obstacles for criminal investigations of corruption regarding MPs.
37. Moreover, the authorities indicate that, on 22 November 2018, the Parliament adopted the draft Code on Parliamentary Rules and Procedures in the first reading. The text regulates the procedure of waiving parliamentary immunity, with the exception of cases of *flagrante delicto* (Chapter XXIV, articles 305-312).
38. GRECO recalls that the Evaluation Report refers to the need to establish guidelines and criteria for lifting parliamentary immunity. GRECO notes that the draft Code on

Parliamentary Rules and Procedures, adopted by Parliament in the first reading, reportedly contains provisions on lifting parliamentary immunity. GRECO is not in a position to assess its content at this stage.

39. GRECO concludes that recommendation vi has not been implemented.

Corruption prevention in respect of judges

Recommendation vii.

40. GRECO recommended (i) changing the composition of the Superior Council of Magistracy, in particular by abolishing the *ex officio* participation of the Minister of Justice and the Prosecutor General and by allowing for more diverse profiles among lay members of the Council, on the basis of objective and measurable selection criteria; (ii) ensuring that both judicial and lay members of the Council are elected following a fair and transparent procedure.
41. Concerning the first part of the recommendation, the authorities report that on 18 January 2018 the Government submitted to Parliament a draft law modifying the Constitution, in particular its Article 122 regarding the composition of the Superior Council of Magistracy (SCM)¹⁷. The draft law provides for the SCM to be composed of, to a significant extent, judges elected by the General Assembly of Judges, representing all courts of justice levels, and of representatives of civil society with experience in the field of law. The members are to be elected or appointed for a non-renewable term of 6 years. According to the draft law, a significant part of SCM members must be judges and the Minister of Justice and the Prosecutor General are not included as members.
42. In addition, the authorities specify that in June 2018 Parliament adopted a bill that *inter alia*, amends the Law n° 947 from 19 July 1996, on the Superior Council of Magistracy (SCM), and provides for exclusion of *ex officio* members of the SCM in voting procedures relating to the judges' career, their disciplinary liability, as well as their sanctioning and dismissal. The law was promulgated by the President and entered into force.
43. As regards the second part of the recommendation, the authorities indicate that on 8 August 2017 the SCM convoked an extraordinary session of the General Assembly of Judges (GAJ), calling for candidates for the election of the SCM members from among judges from different courts' levels, some 2 months before the event. The authorities specify that all judges were informed about the GAJ¹⁸ and about the possibility to submit their applications. The GAJ took place on 20 October 2017 as foreseen. It elected 6 permanent members of the SCM (out of 8 candidates) and 2 substitute members (out of 4 candidates), as well as 5 permanent members and 5 substitutes in the SCM's Disciplinary Board¹⁹.
44. The authorities add that, on 4 December 2017, the Standing Legal Committee for Appointments and Immunities of Parliament decided to announce a public contest for three positions of lay members of the SCM among law professors²⁰. The public competition took place on 4-11 December 2017 and within this timeframe the candidates submitted their applications. On 13 December 2017, the Legal Standing Committee for Appointments and Immunities of Parliament selected 3 candidates out

¹⁷ <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4057/language/ro-RO/Default.aspx>

¹⁸ Through the SCM website and emails to all courts

¹⁹ <http://csm.md/files/adunarea/2017/10/ProcesAGJ201017.pdf>

²⁰ The decision was published on the same day on the Parliament's official website: <http://www.parliament.md/LinkClick.aspx?fileticket=%2bWGnLoJAqc4%3d&tabid=248&language=ro-RO>

of 8 applicants²¹. The Legal Standing Committee for Appointments and Immunities published an additional agenda for the meeting of 13 December, which included the issue of contest for the selection of SCM lay members among law professors²². On 15 December 2017, Parliament approved in its Plenary by a majority vote the list of 3 candidates selected by the Legal Standing Committee for Appointments and Immunities²³.

45. GRECO takes note of the information provided. GRECO welcomes the new law excluding the SCM *ex officio* members from voting procedures regarding judges' career, disciplinary liability, sanctioning and dismissal. This is a positive development in the right direction. However the composition of the SCM remains the same as it was when the recommendation was issued and the Minister of Justice and the Prosecutor General are still members of the Council²⁴. That said, GRECO notes that draft amendments to the Constitution provide for a reviewed composition of the SCM, excluding the Minister of Justice and the Prosecutor General from this body, as required by the recommendation. Reportedly, the draft law has been supported by the Constitutional Court and has been submitted to Parliament. GRECO welcomes the intentions referred to; however, the draft amendments remain to be considered by Parliament. Therefore, the first part of the recommendation cannot be considered more than partly implemented.
46. Regarding the second part of the recommendation, GRECO notes that while the authorities claim that elections have been transparent and fair, other information coming from civil society groups indicate that this has not been the case, for reasons of few candidates participating and insufficient and untimely provision of public information on candidates²⁵. Against this background, the second part of the recommendation cannot be considered more than partly implemented.
47. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

48. *GRECO recommended that decisions of the Superior Council of Magistrates be adequately reasoned and be subject to judicial review, both on the merits of the case and on procedural grounds.*
49. The authorities report that Law no. 253 on amending Article 25 of the Law on Supreme Council of Magistracy was adopted on 1 December 2017 and entered into force on 5 January 2018. It provides for a possibility to appeal decisions of the Superior Council of Magistracy to the Supreme Court, within 15 days from the date of communication, but only in respect of procedural matters. Moreover the authorities refer to the Constitutional Court judgment no. 13 of 14 May 2018, which declared unconstitutional the provisions of Article 25 (1) of Law no. 947 of 19 July 1996 on the Superior Council of Magistrates stating that the decisions of the SCM can be challenged "[...] only in the part related to the procedure of issuing/adoption." On 19 July 2018, Parliament adopted amendments to the Law on the Superior Council of Magistracy (SCM), excluding these provisions and allowing a full review in fact and in law with respect to decisions of the Superior Council of Magistrates.

²¹ http://www.realitatea.md/opt-candida-i-i-au-depus-dosarele-pentru-func-ia-de-membru-al-csm-iar-al-ii-doi-pentru-csp_68727.html

²² <http://parlament.md/LinkClick.aspx?fileticket=e%2f%2bUkjaH%2bQ%3d&tabid=130&mid=507&language=ro-RO>

²³ Decision n°285 of 15 December 2015 published in the Official Gazette no 441-450 of 22 December 2017 <http://parlament.md/SesiuniParlamentare/%C5%9Eedin%C5%A3eplenare/tabid/128/SittingId/2914/language/en-US/Default.aspx>

²⁴ <http://csm.md/structura/membrii.html>

²⁵ See <http://www.e-democracy.md/files/pr/2017-10-17-declaratie-transparenta-alegeri-csm-2017.pdf>

50. Furthermore the authorities refer to the amendments to Law no. 154 of 2012 on the selection, performance evaluation and career of judges, which entered into force on 19 October 2018. These amendments require that the SCM's decisions take into account, to a certain degree, the results of selection exams and of performance appraisals.
51. GRECO is satisfied that, as it appears, following a Constitutional Court ruling and relevant legal amendments, the SCM's decisions can now be challenged both on the merits of the case and procedural grounds. GRECO notes also that the new legislation on selection and performance evaluation of judges may reduce the arbitrary nature of the SCM's decisions. However, in the absence of the information regarding justification in practice of the SCM's decisions on recruitment, career and disciplinary matters the present recommendation is not more than partly implemented.
52. GRECO concludes that recommendation viii has been partly implemented.

Recommendation ix.

53. *GRECO recommended (i) that appropriate measures be taken, with due regard to judicial independence, in order to avoid the appointment and promotion to judicial positions of candidates presenting integrity risks; and (ii) abolishing the five-year probation period for judges.*
54. Concerning the first part of the recommendation, the authorities submit that a law amending the Law on State Secrets²⁶ was adopted in 2017, including the President of the SCM and the court presidents in the list of persons to whom access to state secrets can be granted. It is planned that similar access to state secrets will be granted to all SCM members. The authorities recall that in the past the verifications by the Secret Intelligence Service (SIS) were accessible only to the President of the Republic at the stage of examining the proposals submitted by the SCM on appointing judges.
55. The authorities also submit that the Constitutional Court, by its judgment of 5 December 2017 recognised certain provisions of Law no. 271/2008 on Verification of Public Office Holders and Candidates regarding the verification of candidates to the position of a judge and of judges in service²⁷ as not complying with the principle of judges' independence as enshrined in the Constitution.²⁸
56. The authorities also submit that the Government has sent a draft law amending the Constitution to Parliament which provides for the amendment of Article 116 (5), stating that "Decisions on appointing judges and their career must be based on objective criteria, merits and a transparent procedure, according to the law". Furthermore, it requires that "judges' promotion and transfer occur only with their consent."
57. As for the second part of the recommendation, the Government submitted to Parliament a draft law amending the Constitution, including its Article 116 (2) on the five-year initial appointment period. The draft law provides for life tenure for judges

²⁶ Law no. 167 amending the Law no. 245/2008 on State Secrets was adopted on 20 July 2017 and entered into force on 25 August 2017.

²⁷ Article 5 on verification of the holders and candidates and Article 15, paragraphs (2), (4) and (5) regarding compliance with legal restrictions, absence of risk factors and impossibility to occupy public office in case of a decision on incompatibility with the interests of the civil service).

²⁸ <http://www.constcourt.md/libview.php?l=en&idc=7&id=1104&t=/Media/Noutati/Verification-of-judges-by-the-Security-and-Intelligence-Service-unconstitutional/>.

and for abolishing the five-year probation period. The draft law is pending before Parliament²⁹.

58. GRECO takes note of the information provided. As regards the first part of the recommendation, GRECO notes that the SCM has been given a wider range of information about candidate judges' integrity. Furthermore, GRECO welcomes the draft law aiming at amendments to the Constitution underlining that decisions on appointments and promotion are to be based on "objective criteria, merits" and a transparent procedure. GRECO wishes to stress the importance of maintaining judicial independence while ensuring that candidates to judicial positions presenting integrity risks are not appointed. The verification of such risks is therefore best placed within the judiciary itself.
59. As far as the second part of the recommendation is concerned, in accordance with the above mentioned draft law with constitutional amendments, the Constitution would not refer anymore to the probationary period. However the draft law is still pending in Parliament.
60. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

61. *GRECO recommended that additional steps be taken (i) to ensure that cases are adjudicated without unjustified delays and (ii) to increase the transparency and accessibility of information available to the public on judicial activity.*
62. As far as the first part of the recommendation is concerned, the authorities report that, since 2013, cases are allocated automatically at random among judges using an electronic system (Integrated Program of Case Management - PIGD), as approved by the SCM.³⁰ This Regulation has since been amended twice, in June and in December 2016, in order to improve the system of random allocation of cases³¹. In 2016, the National Anti-Corruption Centre made an overall assessment of PIGD and identified eight major risks, formulating specific recommendations for improvement³². The authorities indicate that the shortcomings found have been communicated to the judicial authorities, the SCM, the prosecutorial authorities etc. Further, the authorities refer to the recent amendments to the Civil Procedure Code on timely adjudication of cases, *inter alia*, providing for speedy civil proceedings in certain situations (e.g. low values etc.). According to data submitted by the Agency for Court Administration out of the 38,995 cases concluded in the first semester 2018, 1,275 lasted for more than three years, 1,267 over two years and 4,275 over one year and the remaining within a year. In total, approximately 17.5 % of all cases were examined for more than 12 months.
63. Moreover, the authorities refer to the efforts undertaken to promote alternative dispute resolution, including legal amendments to the Family Code³³ and the SCM Guidelines for the Application of Extrajudicial Mediation for the Judicial System³⁴.

²⁹ <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4057/language/ro-RO/Default.aspx>

³⁰ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=347622&lang=2>

³¹ <http://csm.md/files/Hotaririle/2016/19/455-19.pdf>; <http://csm.md/files/Hotaririle/2016/38/945-38.pdf>

³² https://www.cna.md/public/files/studiu_piqd.pdf

³³ Article 36 on the procedure of divorce and to refer all the dispute resolutions to the competent civil service or the local notary service

³⁴ The SCM's decision no.504 / 24 of 13.11.2018

See the text on <https://www.csm.md/files/Hotaririle/2018/24/504-24.pdf>

64. Regarding the second part of the recommendation, the authorities indicate that on 10 October 2017, the SCM adopted Decision no. 658/30³⁵ on approval of the Rules of publication of judgments on the website of national courts of justice and of the Supreme Court of Justice. All the judgments of first instance courts and of courts of appeal are accessible online (no log-in or registration are required). The rulings of the Supreme Court are also available online (by accessing each board's case-law link). Moreover, the authorities refer to the recent legal amendments to the Law on the Superior Council of Magistracy, which entered into force on 19 October 2019. These amendments provide for transparency and accessibility of information on the SCM activities to the public and the media. The amendments provide in particular for open SCM meetings (with limited exceptions) and the publication of the SCM's decisions.
65. GRECO notes the measures taken to introduce changes to the random allocation system as a means for speeding-up the proceedings. The authorities also refer to a study of the National Anti-Corruption Centre which apparently has identified problems concerning the functioning in practice of the system of automatic allocation of cases which may have an impact on the pace of justice. GRECO notes that measures are being taken to address these problems through the updating of the PIGD system. Moreover, amendments have been made to the Civil Procedure Code to speed up the handling of civil cases. GRECO also notes that studies made suggest that a limited number of cases adjudicated in 2018 (17,5%) last for more than a year. Finally, GRECO was informed about the efforts taken to promote alternative dispute resolution which appear to go in the right direction. Turning to the second part of the recommendation, GRECO welcomes the regulatory measures taken by the SCM to raise the transparency and accessibility of court judgments and decisions through on-line publication. These also go in the right direction. In addition, GRECO welcomes the legislative amendments aiming at further improving the transparency and accessibility of information on SCM's activities. The implementation in practice of these measures will need to be followed carefully by the authorities.
66. GRECO concludes that recommendation x has been partly implemented.

Recommendation xi.

67. *GRECO recommended (i) that the Code of Professional Conduct and Ethics be communicated effectively to all judges and complemented by further written guidance on ethical questions – including explanations, interpretative guidance and practical examples – and regularly updated; (ii) that dedicated training of a practice-oriented nature and confidential counselling within the judiciary be provided for all judges.*
68. As for the first part of the recommendation, the authorities indicate that, with the support of the "ATRECO project"³⁶, booklets containing the provisions of the Code of Professional Conduct and Ethics have been published and distributed among courts of all levels³⁷. The authorities indicate that on 8 May 2018 the SCM adopted Decision no. 230/12 on approving the "*Commentary to the Code of Ethics and Professional Conduct of Judges*"³⁸. The authorities add that in the second half of 2018 the SCM is going to carry out informal visits to three courts, with the support of the ATRECO

³⁵ <http://csm.md/files/Hotaririle/2017/30/658-30.pdf>

³⁶ ATRECO Project (Increased Efficiency, Accountability and Transparency of Courts in Moldova) <https://www.giz.de/en/worldwide/31519.html>

³⁷ According to SCM information about 1700 booklets containing the Code of Professional Conduct and Ethics provisions were disseminated among judges to all court's levels from March 1st to March 31st 2016.

³⁸ For comments to the Code of Ethics and Professional Conduct, see http://csm.md/files/Acte_normative/Legislatia/Interne/2018/Coment_Codul_etica.pdf

Project, to explain the mechanisms for enforcing the Code and the recently adopted comments.

69. Regarding the second part of the recommendation, the authorities indicate that on 8 May 2018 the SCM adopted Decision no. 229/12, on endorsing the new Regulation on the activity of the Judge's Ethics and Professional Conduct Committee aiming at enforcing and applying in practice the Code of Ethics and Professional Conduct of Judges. The Regulation provides for 1) issuing consultative opinions interpreting the Code's provisions; 2) issuing recommendations on specific cases of a judge's misconduct or misbehaviour³⁹. Moreover, on 3 July 2018 the SCM adopted Decision n°317/16 on appointing members of the Judge's Ethics and Professional Conduct Committee, which is, *inter alia*, a counselling body to individual judges. A judge may seek an opinion or a recommendation from the Committee or its individual members. The authorities specify that according to the Code of Ethics and Professional Conduct of Judges (Article 9) and the Regulation on the activity of the Judge's Ethics and Professional Conduct Committee (Chapter 3), the Committee should refrain from disclosing its communications with judges, unless the relevant judges request waiving the confidentiality.
70. The authorities also indicate that a dedicated training on ethics, deontology and prevention of corruption for judges has been included into the annual training curriculum of the National Institute of Justice (NIJ). Furthermore, the authorities have provided the following information on training activities conducted since 1 July 2016⁴⁰:
- Training session for 6 members of the SCM on Judicial Ethics – new developments, challenges and solutions, supported by ATRECO Project, 15 December 2016
 - Two training sessions for a total number of 42 judges on Ethics and Professional Deontology, organised by NIJ), 16 March and 17 November 2017;
 - Two seminars for 27 judges and 34 prosecutors on methods to prevent corrupt behaviour and testing the professional integrity, organised by NIJ, 5 June and 4 December 2017;
 - Joint training for 10 judges and 14 prosecutors on methods to prevent corrupt behaviour, 14 May 2018;
 - Seminar for 47 judges on judicial ethics and reasoning of judicial decisions, organised by NIJ and supported by US Embassy to Moldova, 15-16 May 2018;
 - Module of the seminar on ethics and professional deontology for judges, 21 November 2018.
71. GRECO is pleased that the Code of Professional Conduct and Ethics of Judges has been complemented by a commentary. The Code has also been published and distributed among courts of all levels. The first part of the recommendation has thus been adequately addressed. As to the second part of the recommendation, GRECO appreciates that a dedicated training on judicial ethics and corruption prevention has been introduced in the annual training programmes of the NIJ and that a series of training events on these matters were organised in 2016-2018. GRECO also appreciates that the Judge's Ethics and Professional Conduct Committee and its individual members provide confidential counselling to judges concerning the

³⁹ The Committee is composed of 5 judges – members of SCM. Ex officio members in SCM (i.e. President of Supreme Court of Justice, Prosecutor General and Minister of Justice) and members- Law professors cannot hold the position of a Committee's member. See full text <http://csm.md/files/Hotaririle/2018/12/229-12.pdf>

⁴⁰ See also the plan for in-service training for 2018 <http://www.inj.md/ro/plan-calendaristic-modular-de-formare-continua-semestrul-i-in-anul-2018-compilat>

interpretation of the Code of Ethics and Professional Conduct. The second part of the recommendation has also been implemented.

72. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xii.

73. *GRECO recommended that (i) further measures be taken to inform judges about the mechanisms foreseen in the Law on Conflicts of Interest regarding gifts and (ii) that compliance with the rules on gifts, hospitality and other advantages foreseen in this law and other relevant texts be properly monitored.*
74. The authorities specify that Law no. 133 on declaration of wealth and personal interests of 17.06.2016 repealed Law no. 16 on the conflict of interests of 15.02.2008. The authorities add that the National Anti-corruption Centre, as the national institution responsible for the prevention and combating corruption, educates and raises awareness on anti-corruption, including among judges. In 2017 it carried out seven anti-corruption training courses for 219 judges, prosecutors and court officials. These training courses concerned the issues of integrity, anti-corruption policies and tools, anti-corruption legal proofing, professional integrity testing and corruption risks management; conflicts of interests and declaring and registering gifts have also been covered. Moreover, measures are taken regularly to raise awareness of judges and court personnel on the rules on symbolic, courtesy or protocol gifts⁴¹. The rules on gifts are public.
75. Furthermore the authorities report that the SCM has a register of gifts and a commission for recording and assessing gifts (operational since 6 July 2016)⁴². The Supreme Court also has a register of gifts accessible online⁴³, which includes information regarding the beneficiaries, amount of gifts received during protocol measures and their value as well the procedure of "repurchasing by the recipients" (for gifts, the value of which exceeds the threshold of 1000 lei/approx. 50 Euro). The authorities indicate that on 28 June 2018 the SCM requested all courts to provide information on their management and handling of gifts. It turned out that all the courts have their own registers of gifts⁴⁴ (publicly accessible) and their own commission for establishing evidence and evaluating gifts and that personnel are regularly informed of these rules.
76. GRECO takes note of the information provided, *inter alia* that the Law on Conflicts of Interests has been replaced by new legislation. GRECO acknowledges that training courses and awareness raising measures covering conflicts of interest and gifts have been provided with respect to a large number of judges.
77. As far as the second part of the recommendation is concerned, GRECO recalls that the Evaluation Report already contained references to the SCM register of gifts and its commission to evaluate gifts. GRECO notes that the Supreme Court as well as all other courts have their own registers of gifts, which are public upon request. Moreover, judges are regularly informed about the rules in this respect.
78. GRECO concludes that recommendation xii has been dealt with in a satisfactory manner.

Recommendation xiii.

⁴¹ Government Decision n°134 of 22 February 2013 on the value of symbolic gifts and the Regulation on recording, evaluating, storing, use and redemption of symbolic gifts, courtesy or protocol gifts

⁴² In compliance with Government decision n° 134 of 22 February 2013

⁴³ <http://csi.md/index.php/despre-curtea-suprema-de-justitie/gift-registry>

⁴⁴ 5 gifts registered at the Supreme Court, 1 gift at the Chisinau district court and 1 gift at the Anenii-Noi Court.

79. *GRECO recommended that the legal and operational framework for the disciplinary liability of judges be revised with a view to strengthening its objectivity, efficiency and transparency (paragraph 135).*
80. The authorities report that on 21 June 2018 Parliament adopted amendments to Law no. 178/2014 on disciplinary liability of judges, which entered into force on 19 October 2018. The amendments provide a new procedure for examining claims regarding disciplinary violations by a judge and the amendments strengthen the competencies of the Judicial Inspectorate in disciplinary matters⁴⁵. They specify, in particular, that the Judicial Inspectorate is an independent body, consisting of seven judge-inspectors, who enjoy functional autonomy. Only the candidates who have worked as judges in the last three years may apply for the position of a judge-inspector. A person can hold a single term of office for 6 years in this capacity and cannot be re-elected.
81. GRECO takes note of the information provided, i.e. that legal amendments have been adopted bringing some changes to the disciplinary framework for judges. GRECO notes in particular that the competencies of Judicial Inspectors have been reinforced and that appeal before the Disciplinary Board is now possible. The authorities are invited to further report on the objectivity, efficiency and transparency of disciplinary proceedings in respect of judges, as required by the recommendation.
82. GRECO concludes that recommendation xiii has been partly implemented.

Corruption prevention in respect of prosecutors

Recommendation xiv.

83. *GRECO recommended (i) expressly notifying all prosecutors in writing that verbal instructions given to hierarchically subordinate prosecutors are not binding, unless they are confirmed in writing, including in such notifications the procedures to be followed in providing timely confirmations and (ii) ensuring that all hierarchical interventions regarding a case are properly documented in practice.*
84. The authorities report that on 20 July 2017 Parliament adopted Law no. 168 amending Article 13 of the Law on Prosecutor's Service⁴⁶. This law states that "The procedural hierarchy of prosecutors and the competences of hierarchical superior prosecutors are set up in the Criminal Procedure Code". The authorities specify that the Criminal Procedure Code (CPC) was subsequently amended to define the tiers of the hierarchy⁴⁷ and clear rules for hierarchical interventions in the framework of criminal investigations, providing the subordinate prosecutors with the possibility to challenge the indications of hierarchically superior prosecutors to the Prosecutor General or his/her deputies⁴⁸. The authorities recall that according to Article 51 (3¹) of the CPC a prosecutor is independent in exercising his/her duties in criminal proceedings and should obey only the law. The same article specifies also that a prosecutor shall execute written orders given by a hierarchically superior prosecutor⁴⁹. The authorities add that giving verbal instructions represents a violation of the Code of Ethics and triggers disciplinary liability. Moreover, art. 303 of Criminal

⁴⁵ http://justice.gov.md/public/files/2018/transparenta_in_procesul_decizional/mai/2/L178.pdf

⁴⁶ The Law on Prosecutor's Service n°3 was adopted on 25 February 2016 and entered into force on 1 August 2016.

⁴⁷ Article 53¹ "Hierarchic Superior Prosecutor". Previously this matter was regulated by a separate internal document of the Prosecutor's Office.

⁴⁸ The Prosecutor General or his/her deputies decide on an appeal within the timeframe of 15 days.

⁴⁹ Amendments to the CPC from 2012

Code establishes criminal liability for undue interference in the activity of criminal prosecution.

85. Furthermore, the authorities indicate that the General Prosecutor's Office has created a working group with the aim of amending the "*Instruction on the role and duties of heads of General Prosecutor's Office subdivisions and of chief territorial and specialised prosecutors in carrying out and leading criminal prosecutions*" in line with above mentioned legal amendments of the CPC⁵⁰. The authorities underline that the purpose of this work is to clearly regulate the regime of hierarchical interventions and to notify all prosecutors that only written indications foreseen in the Criminal Procedure Code are permitted in the framework of criminal investigations.
86. GRECO takes note of the information provided. With respect to the first part of the recommendation, GRECO notes that the new amendments to the Law on Prosecutor's Service - and especially amendments to the CPC - go in the right direction, as they clarify hierarchical interventions and provide the possibility to challenge instructions of superiors. That being said, the new legislation does not explicitly exclude verbal instructions, nor does it indicate how prosecutors shall react when they receive them. It would appear that no specific measures have been taken so far to ensure that all prosecutors are notified in writing that oral instructions are not binding unless confirmed in the written form. However, the creation of a working group in the Prosecutor's Office which is intended to address this matter is a promising development, but the outcome of the working group remains to be seen and assessed.
87. As for the second part of the recommendation it has not been ensured that all hierarchical interventions are properly documented in practice.
88. GRECO concludes that recommendation xiv has not been implemented.

Recommendation xv.

89. *GRECO recommended that appropriate measures be taken to ensure that the composition and operation of the Superior Council of Prosecutors be subject to appropriate guarantees of objectivity, impartiality and transparency, including by abolishing the ex officio participation of the Minister of Justice and the President of the Superior Council of Magistracy.*
90. The authorities report that an amendment to the Constitution was adopted on 25 November and enacted on 29 November 2016, introducing a new article (Art. 125¹) on the Superior Council of Prosecutors (SCP). This article specifies that the SCP is "the guarantor of independence and impartiality of prosecutors", is "composed of prosecutors elected from the prosecutor's offices of all levels and of representatives of other authorities, public institutions or civil society" and "ensures appointment, transfer, promotion in position and disciplinary measures regarding prosecutors". The authorities indicate that the membership of the SCP is in accordance with the amended Law on Public Prosecutor's Office⁵¹. It is composed of 12 members, including 4 ex-officio members (the Prosecutor General, the Chief Prosecutor of Gagauzia, the President of SCM and the Minister of Justice); 1 prosecutor from the GPO and 4 prosecutors from territorial and specialised prosecutor's offices; 3 members elected by competition among civil society (one by the President of the Republic, one by Parliament and one by the Moldovan Academy of Science).

⁵⁰ Approved by Prosecutor General Order no. 9/36 of February 29, 2016

⁵¹ Amended by the Law no. 3/2016

91. Moreover, the authorities specify that, in 2017, the General Assembly of Prosecutors elected 5 members to the SCP, out of 8 candidates⁵². Another achievement pertains to the election of 3 lay members among civil society. The new SCP is operational from 1 January 2018. The authorities indicate that the role of ex-officio members is insignificant as in practice they do not attend the SCP meetings⁵³.
92. GRECO takes note of the information provided and welcomes the SCP having been given a constitutional basis and that independence and impartiality of prosecutors is now expressed in the Constitution. However, the current recommendation is also about ensuring that the composition of the SCP provides for objectivity, impartiality and transparency. In this respect, the authorities have not provided any new information and it is noticeable that the Minister of Justice and the President of the SCM continue to be *ex officio* members of the SCP, contrary to what is required in the recommendation.
93. GRECO concludes that recommendation xv has been partly implemented.

Recommendation xvi.

94. *GRECO recommended maintaining, throughout the transitional period until the Constitution is amended, the application of Article 40(7) of Law No. 294 of 2008 on the Public Prosecutor's Office which provides that the Prosecutor General cannot hold more than two consecutive mandates.*
95. The authorities recall that on 25 November 2016 the Constitution was amended, in particular its Article 125 on the procedure of appointment of the Prosecutor General. Now the Prosecutor General is appointed by the President of the Republic, upon proposal of the SCP for one non-renewable seven-year term of office. The Law on Public Prosecutor's Office contains similar provisions.
96. GRECO welcomes the constitutional amendment, which provides that the Prosecutor General is appointed by the President of the Republic, upon proposal of the SCP, for a single seven year term, without possibility of being renewed. This measure complies with the current recommendation and a new Prosecutor General has been appointed upon this condition.
97. GRECO concludes that recommendation xvi has been implemented satisfactorily.

Recommendation xvii.

98. *GRECO recommended (i) that the Code of Ethics and Conduct be communicated effectively to all prosecutors and complemented by further written guidance on ethical questions – including explanations, interpretative guidance and practical examples – and regularly updated; (ii) that dedicated training of a practice-oriented nature and confidential counselling within the prosecution service be provided for all prosecutors.*
99. Concerning the first part of the recommendation, the authorities report that, with the support of international partners, the General Prosecutor's Office has published a booklet "Guidelines for citizen", containing provisions of the Code of Ethics of Prosecutors⁵⁴, the provisions regarding disciplinary violations contained in the Law no. 3/2016 on the Public Prosecutor's Office and in the Code of Ethics; procedure of filing a complaint against illegal or inappropriate fulfilment of service duties, misuse of position, misconduct of prosecutor or other ethical issues; the procedure of

⁵² <http://procuratura.md/file/Hotarirea%20AG%20nr4%20validarea%20rezultatelor%20alegerilor.pdf>

⁵³ See <http://procuratura.md/md/hotar/>

⁵⁴ Adopted by the General Assembly of Prosecutors on 27 May 2016, and in force since 1 August 2016

examining the cases by Discipline and Ethics Board etc.⁵⁵. The Code of Ethics is also published on the official website of the Public Prosecutor's Office and can be easily accessed⁵⁶. Moreover, the authorities add that, as from 1 January 2018, the SCP is working on a booklet containing comments and explanatory notes, including interpretative guidance on ethical and professional conduct dilemmas⁵⁷.

100. Regarding the second part of the recommendation, the authorities indicate that, according to the Law on Public Prosecutor's Office, the Disciplinary and Ethics Board has the competence to adopt recommendations on prevention of disciplinary violations within the Prosecutor's Office and on compliance with the ethics of prosecutors. On 14 September 2016, the SCP approved the Regulation on the organisation and activity of the Disciplinary and Ethics Board, which was subsequently amended on 24 January 2017⁵⁸. The Regulation specifies that the Board will provide advice on incompatibilities, conflicts of interest or other issues related to prosecutorial ethics.
101. The authorities indicate that a dedicated training on ethics, deontology and prevention of corruption for prosecutors has been included into the annual training curriculum of the National Institute of Justice (NIJ). In addition, the authorities have reported the following training events:
 - Two training courses on Professional Ethics of prosecutors for 49 prosecutors, organised by NIJ in cooperation with the American Bar Association in Moldova, Rule of Law Initiative (ABA ROLI), 11 and 18 October 2016;
 - Training course for 17 members of the Superior Council of Prosecutors and its subordinated Boards on investigating ethical misconduct within Prosecutor's Service, organised by NIJ in cooperation with the Council of Europe (CoE), 31 October 2016;
 - Three training courses for 74 chief and deputy-chief prosecutors on Management and Leadership (covering practical examples on integrity and ethical dilemmas and reacting to and reporting of alleged misconduct or Code of Ethics violations), organised by NIJ and CoE, with the support of ABA ROLI, 20-21 March; 19-20 April and 20-21 November 2017;
 - Two seminars for 56 line prosecutors on Ethics and Professional Deontology, 23 March and 23 November 2017;
 - Two seminars for 34 prosecutors and 27 judges on Methods of preventing corrupt behaviour and testing the professional integrity, organised by NIJ, 5 June and 4 December 2017;
 - Training course on Ethics and Professional Deontology for 13 prosecutors, organised by NIJ and CoE, 13 February 2018;
 - Two-day seminar on Management and Leadership for 19 prosecutors, 14-15 February 2018;
 - Training for 14 prosecutors and 10 judges on Methods to prevent corrupt behaviour, organised by NIJ, 14 May 2018;
 - Module of the seminar on ethics and professional deontology for prosecutors, 2 October 2018.

⁵⁵ The content is published online on official website of Prosecutor's Service and was spread throughout the prosecutor's offices of all levels:

http://procuratura.md/file/2017-0130_Ghidul%20Cetateanului.%20Etica%20procurorului.%20Principiile%20raspunderii%20pentru%20incalcari%20de%20etica%20si%20disciplina.pdf

⁵⁶ http://procuratura.md/file/2016-06-03_CODUL%20de%20etica%20al%20procurorului%20aprobat%20la%20AG%2027.05.2016.pdf

⁵⁷ Following the outcomes established in the Concept of promoting professional Ethics and raising public awareness on ethics approved by the SCP decision n° 12-40/17 of 30 March 2017 and Prosecutor General's Order n° 11/28 of 30 March 2017. See text on <http://procuratura.md/md/hotar/>

⁵⁸ http://procuratura.md/file/2017-01-25_REGULAMENTUL%20Colegiului%20DISCIPLINA%20si%20ETICA_modificat.pdf

102. GRECO takes note of the information provided. With respect to the first part of the recommendation, GRECO appreciates that the Code of Ethics and other relevant provisions have been compiled in one document that has been published and made available online. Furthermore, GRECO notes that the elaboration of the practical guidance in solving concrete ethical dilemmas, including explanation and practical examples, is underway. The first part of the recommendation has thus been partly implemented. As regards the second part of the recommendation, GRECO appreciates that training on ethics and corruption prevention has been included in the annual training curriculum of the NIJ and that a series of training events on these matters have been organised. GRECO notes that the Disciplinary and Ethics Board is empowered with the task of providing interpretative guidance. This was already the case at the time of the adoption of the Evaluation Report, which emphasised that “the function of providing confidential counselling in concrete cases ought to be given to dedicated practitioners who have specific expertise in the field and are distinct from disciplinary bodies”. Such counselling has not been put in place. It follows that also the second part of the recommendation has been partly implemented.

103. GRECO concludes that recommendation xvii has been partly implemented.

Recommendation xviii.

104. *GRECO recommended that additional measures be taken in order to strengthen the objectivity, efficiency and transparency of the legal and operational framework for the disciplinary liability of prosecutors.*

105. The authorities report that, pursuant to the Law on the Public Prosecutor’s Office, the SCP shall have an apparatus responsible for organising the activity of the Council and its Boards, including the Disciplinary and Ethics Board. The budget for the SCP is available starting from 1 January 2018. Reportedly, the new SCP became operational at the beginning of 2018 after the election/appointment of its members. The SCP has launched the recruitment of its Secretariat among civil servants and technical staff. Finally, the authorities indicate that the Disciplinary and Ethics Board has gathered regularly and has considered cases of disciplinary liability of prosecutors, initiated by the Inspection of Prosecutors or on appeals lodged against decisions rendered by the Inspection on terminating disciplinary proceedings against prosecutors⁵⁹.

106. GRECO takes note of the information concerning the new SCP and the Disciplinary and Ethics Board under the SCP. It recalls that the reason for the current recommendation was the lack independence, impartiality, means and transparency of relevant bodies: including the statutory and budgetary dependence of the Inspection of Prosecutors on the General Prosecutor, the possibility for a SCP member to be involved in several stages of disciplinary proceedings against a prosecutor; the lack of motivation of the decisions in disciplinary matters and the lack of adequate publicity for disciplinary cases. Nothing to this end has been reported. GRECO encourages the authorities to take the necessary measures in order to make the disciplinary liability system objective, effective and transparent in line with requirements of the present recommendation. The steps taken so far do not render this recommendation complied with, even partly.

107. GRECO concludes that recommendation xviii has not been implemented.

⁵⁹ See <http://www.procuratura.md/md/SCD/> and <http://www.procuratura.md/md/colegiu-disciplina/ra/>

III. CONCLUSIONS

108. **In view of the foregoing, GRECO concludes that the Republic of Moldova has implemented satisfactorily or dealt with in a satisfactory manner four of the eighteen recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, nine have been partly implemented and five have not been implemented.
109. More specifically, the recommendation v, xi, xii and xvi have been implemented satisfactorily, recommendations i, iv, vii, viii, ix, x, xiii, xv and xvii have been partly implemented and recommendations ii, iii, vi, xiv and xviii have not been implemented.
110. With respect to members of parliament, GRECO considers insufficient the efforts taken to improve the legislative process. The authorities should systematically ensure timely publication of draft laws and related information, allowing for a meaningful public and parliamentary debate on draft legal initiatives. A code of conduct for MPs remains to be adopted and measures to prevent various forms of conflicts of interest are still to be taken.
111. As regards judges, GRECO welcomes the publication and distribution of the Code of Professional Conduct and Ethics of judges and the adoption of the commentaries to the Code. GRECO notes that measures have been taken to address the problem of unjustified delays in adjudicating cases. Progress has also been achieved in increasing the transparency of court decisions and judgments. GRECO notes that specific measures to prevent appointment and promotion to judicial positions of candidates with integrity risks as well as the abolishment of the probationary period for judges appear to be underway. GRECO strongly regrets that the Minister of Justice and the Prosecutor General are still *ex officio* members of the Superior Council of Magistracy.
112. As regards prosecutors, GRECO welcomes the constitutional reform, which provides for the appointment of the Prosecutor General for a single non-renewable term of office. It is also to be welcomed that the Code of Ethics of prosecutors has been published and made available online. Although the Superior Council of Prosecutors (SCP) has been given a constitutional basis, the Minister of Justice and the President of the SCM continue to be *ex officio* members of this body. Clear formal procedures regarding hierarchical instructions to prosecutors remain to be introduced.
113. In view of the above, GRECO notes that further significant material progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. GRECO invites the Head of delegation of Moldova to submit additional information regarding the implementation of recommendations i-iv; vi- x; xiii-xv; xvii and xviii by 30 June 2020.
114. Finally, GRECO invites the authorities of the Republic of Moldova to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.