

# Prevention of Corruption in the Executive Branch and the Police

What has the Republic of Serbia done to implement the GRECO Recommendations from the fifth round of evaluation

Summary

The views expressed in this analysis belong solely to the author and his associates and do not necessarily represent the official position of the OSCE Mission to Serbia.

Transparency Serbia

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## Project Note

The analysis was carried out in 2024. The text uses parts of the proposals made by Transparency Serbia during the public debate on the draft amendments to the Law on Prevention of Corruption, the proposal of the new Anti-Corruption Strategy, as well as earlier comments on the GRECO recommendations from the Fifth Round of Evaluation.

This analysis builds on last year's analysis, which considered the implementation of only part of the GRECO recommendations (the part relating to the executive branch). In places where it is still relevant, the text of the earlier analysis has been retained.

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## Main conclusions

### Anti-Corruption Potential and How Much It Has Been Exploited

The recommendations that Serbia received from GRECO in 2022, as part of the Fifth Round of Evaluation, carry great potential for improving the system and prerequisites for the fight against corruption. The extent to which this potential is used depends on the **approach** taken towards them by the **state authorities of Serbia**, the **interest for and significance** of the fulfillment thereof of **other important actors in the fight against corruption**, such as international organisations, civil society and the media, and finally, from the **consistency and thoroughness of GRECO proper** when validating Serbia's performance.

This research has shown that **the approach of the Serbian state authorities to the implementation of the recommendations has not been satisfactory** – the declaratively expressed willingness was not followed by appropriate action, and the goals that the Government of Serbia has set to itself are far below what can be done and far beyond the deadlines we received from GRECO. While the situation is better in terms of the importance attributed to the fulfilment of the GRECO recommendations in the reports of other stakeholders – they are **high on the list of priorities of the European Union** (Annual Progress Report) - the opportunity to accelerate their implementation by including this issue in the Reform Agenda was missed. The public in Serbia is showing interest, mainly due to the publication in many media outlets of GRECO statements and the findings of the previous Transparency of Serbia survey. However, very little has been written about the work on the fulfillment of specific recommendations, even concerning topics that could be both interesting and easy to understand for citizens (e.g. what is prohibited for police officers under the new rules). In the first compliance report, GRECO itself has **looked at the situation mostly in an objective manner** and assessed that the recommendations were not implemented at all or only partially implemented. On the other hand, in the only case where it was estimated that a recommendation has been fully complied with, it is based **on formal elements** (adoption of regulations/laws/bylaws), **without any further analysis of the substance and possible effects**.

### Why these recommendations are important for Serbia

The importance of the GRECO recommendations for Serbia stems from several factors.

First, in a relatively short period of time, evaluators assess the quality of regulations and practices on the same issues across Europe, and even outside our continent, giving recommendations for improving the situation, and then monitor the extent to which these recommendations are being fulfilled and inform both states and the public about it. The fifth round of evaluation covers two particularly important areas – the mechanisms that should prevent corruption in the executive branch and those that are applied within the police<sup>1</sup>.

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<sup>1</sup> [https://www.coe.int/en/web/greco/evaluations#%2222359946%22:\[1\]](https://www.coe.int/en/web/greco/evaluations#%2222359946%22:[1])

In Serbia, as well as in other countries with candidate status, the process of European integration gives additional weight to the GRECO recommendations. Instead of listing specific obligations that countries should meet in order to ensure adequate protection against corruption, the European Commission is asking them to comply with the recommendations received from GRECO. This can be seen from this year's report of the European Commission, where the fulfillment of the recommendations from the Fifth Round of Evaluation is one of the key recommendations for Serbia for 2025<sup>2</sup>.

The third, and perhaps most important, factor is the specificity of many of the recommendations in this Evaluation Report<sup>3</sup>, as well as the fact that the recommendations themselves refer to some of the biggest obstacles to the functioning of the anti-corruption system in Serbia. In this regard, the recommendations related to shedding light on hidden influences on decision-making in the executive and indirectly legislative branch (the role of advisors, lobbying, the process of public consultation, access to information), creating preconditions for criminal prosecution of corruption in the executive branch (immunity, competencies and capacities of the prosecutor's office), examining specific allegations of corruption (e.g. promotion of whistleblowing, reviewing of the reports of the Anti-Corruption Council) are particularly important, just like those related to the prevention of political influence on the work of the police and the establishment of mechanisms for identifying the risks of corruption in the police proper and eliminating such risks.

### Missed opportunities

The significance of this element has not been adequately recognized by the authorities in Serbia. Such a conclusion is unequivocal in view of the fact that, according to GRECO, **in the first set deadline, Serbia fully fulfilled only one of the 24 recommendations**. Furthermore, concerning many of the recommendations during this period, the work has not even begun. In some cases, the delay in implementation may be explained, but not fully justified, by difficulties that are partly of an objective nature, such as holding early parliamentary elections in 2022 and again in 2023 - elections may delay the adoption of a bill in the Assembly for several months, but are not a legal obstacle for ministries to draft a law or hold a public debate on it. Also, some of the problems that need to be addressed are really complex or the implementation of the recommendations is related to the resolution of a number of other issues, which are controversial *per se* (which was the case with a number of provisions in the draft of the new Law on Internal Affairs. On the other hand, no justification can be found for the failure to carry out recommendations the implementation of which did not involve legislative activity or the engagement of resources (e.g. publication of the names of advisors to members of the Government).

The process of drafting national anti-corruption planning documents, instead of serving as an incentive to implement the recommendations, worked more in the opposite direction. **As the adoption of the Anti-Corruption Strategy was delayed, the deadlines for fulfilling the GRECO recommendations, to which parts of the Strategy related to, were also postponed**, even though

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<sup>2</sup> <https://www.mei.gov.rs/srl/dokumenta/eu-dokumenta/godisnji-izvestaji-ek/>

<sup>3</sup> <http://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216d>

there was no obstacle to work on them in parallel. On the other hand, the Strategy itself<sup>4</sup>, as well as the proposal for its first action plan, which is expected to be adopted soon, contain an element that will further slow down the implementation of the recommendations: despite the fact that they are commitments *that should have already been fulfilled*, the Government of Serbia has committed itself, while the Strategy is effective (until the end of 2028), to meet *only 35% of the recommendations!* However, it remains to be hoped that this process will proceed somewhat faster, and that this, not particularly ambitious goal, will be achieved during the validity of the first action plan (by the end of 2025).

The realization of the great potential of the GRECO recommendations depends not only on the state authorities of Serbia and the strength of civil society and the media that monitor their implementation, but also on the subsequent views of GRECO on whether the implementation is satisfactory. The recommendations are derived from the findings of the evaluation team and the implementation thereof should be viewed in the context of the shortcomings that were initially identified. A minimalist approach to the assessment of the degree of realization may lead to consider the performance of the state satisfactory, for example, because an act has been passed or a body has been established, even though there is no guarantee that the underlying problem will be solved. Serbia and GRECO already have several such experiences, including on the issue of the Law on Lobbying, the Law on the Prevention of Corruption (formerly the Law on the Anti-Corruption Agency), when new GRECO reports showed that what was done on the basis of recommendations from previous rounds of evaluation did not bring the desired results.

Therefore, an additional cause for concern, in addition to the aforementioned delays and postponements, according to the assessment of Transparency of Serbia, is the fact that there exists a minimalist approach and insufficient public involvement in the work carried out so far on the fulfillment of certain GRECO recommendations and the planning of future activities.

The research shows that in 2024, the Ministry of the Interior and the Ministry of Justice carried out activities that are likely to continue in the following year and ultimately result in a significantly better assessment in the next Compliance Report in terms of the number of fully or partially implemented recommendations. Regarding the Ministry of the Interior, it is primarily the adoption of several internal bylaws and a new Code of Police Ethics, and when it comes to the Ministry of Justice, the fact that the adopted anti-corruption strategy reflects almost all GRECO recommendations, unlike the proposal of that document from 2023.

## Degree of realization

The new convocation of the National Assembly, which began its work at the beginning of February and the Government formed at the beginning of May 2024, have been given a new opportunity and more than enough time to do what their predecessors (governments and assemblies from 2016, 2020 and 2022) failed to do – this time to fulfill everything that GRECO requested, at least within the second set deadline, that is, until 31.12.2025. The first deadline (30.9.2023), set by GRECO in the Evaluation Report, and has expired without much being done. Shortly thereafter, Transparency

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<sup>4</sup> [https://www.srbija.gov.rs/extfile/sr/802696/nac\\_strat\\_borba\\_protiv\\_korupc\\_2024-2028\\_0017\\_cyr.zip](https://www.srbija.gov.rs/extfile/sr/802696/nac_strat_borba_protiv_korupc_2024-2028_0017_cyr.zip)

Serbia, presenting a survey on the implementation of the GRECO recommendations, announced such an outcome on March 6, 2024. These findings were confirmed at the GRECO Plenary Assembly, held from 17 to 21 June 2024. At that meeting, a [Compliance Report](#) was adopted, containing an assessment of the activities carried out until the end of 2023.

According to the report, Serbia has satisfactorily implemented only one of the twenty-four recommendations contained in the Report on the Fifth Round of Evaluation.

The result could have been much better if amendments had been made to some of the laws that were drafted, primarily the Law on the Prevention of Corruption and the Law on Internal Affairs, because they refer to several GRECO recommendations. However, the Ministry of Justice and the Ministry of Interior have not brought these proceedings to an end. The draft amendments to the Law on the Prevention of Corruption, published at the end of the summer of 2023, did not move beyond that stage, nor was a report on the public hearing published. A likely reason for the additional wait for it to be proposed could be the desire to make all the necessary changes to the law at the same time, and Serbia has received recommendations from the ODIHR monitoring mission in this regard.

Of the remaining twenty-three recommendations, 10 have been partially complied with, while thirteen have not been fulfilled at all. That is why GRECO notes that in the next 18 months (one third of which period has already elapsed), further progress will be needed to achieve an adequate level of compliance with the recommendations.

According to GRECO, with regard to the holders of the highest executive offices, important steps have been taken with the adoption of the Integrity Plan in the General Secretariat of the President of the Republic and the Code of Ethics applicable to all persons holding the highest executive positions in the administration.<sup>5</sup> Furthermore, the publication of information on the names and basic functions of the Chief of Staff, Secretary General and Advisor to the President was positively assessed.<sup>6</sup> GRECO noted progress in the cooperation of bodies responsible for the combatting corruption, as well as some progress in the verification of assets and incomes of persons in the highest executive positions by the Agency for the Prevention of Corruption.<sup>7</sup>

On the other hand, GRECO stresses the need to introduce rules on integrity checks before appointing ministers, chiefs of staff and advisers.<sup>8</sup> Another disadvantage is that information on the chiefs of staff and advisors to the Prime Minister, Deputy Prime Minister and Ministers, as well as the scope of their competence, is not yet publicly available, as well as the fact that integrity plans, codes of conduct and other strategic documents regarding persons in the highest executive positions in the Government have not yet been adopted.<sup>9</sup> The authorities just need to make sure that all persons are subject to disclosing *ad hoc* conflicts of interest and to be bound by restrictions after leaving office. In addition, there is an obligation to ensure that key institutions for the fight against corruption (i.e. the Agency for the Prevention of Corruption, the Prosecutor's Office for Organized Crime) should be provided with the proper staff. Finally, no steps have been taken to review the immunity granted to

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<sup>5</sup> Compliance Report, p. 27, <https://rm.coe.int/cinquieme-cycle-d-evaluation-prevention-de-la-corruption-et-promotion-/1680b0cd82>

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

members of the Government so that it cannot be applied to corruption offences and to extend the jurisdiction of the Prosecutor's Office for Organized Crime to all persons holding the highest executive offices, including the President of the Republic.<sup>10</sup>

According to GRECO, some progress has also been made on recommendations related to the police, such as the adoption and publication of the Code of Police Ethics, as well as its inclusion in mandatory training for new police officers and those already employed.<sup>11</sup> According to GRECO, progress is also the formation of a body for recording and evaluating gifts in the Ministry of the Interior, as well as a significant reduction in the threshold of value for gifts that police officers are allowed to receive and keep.<sup>12</sup> On the other hand, GRECO points out that more decisive steps are needed towards amending to the Rules on Police Appointments in order to ensure more open and transparent competitions and prevent political appointments to key positions.<sup>13</sup> It is necessary to carry out integrity checks for new police officers on regular basis, as well as for those already employed.<sup>14</sup> Finally, the mechanism for overseeing police misconduct remains to be revised, to ensure that investigations into complaints against the police are sufficiently independent and transparent.<sup>15</sup>

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<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> Ibid., p. 28

<sup>14</sup> Ibid

<sup>15</sup> Ibid

## Key recommendations

1. The Action Plan for the first year of implementation of the National Anti-Corruption Strategy should be expanded to include solutions for all the Recommendations from the Fifth Round of GRECO evaluation, either by fully implementing the recommendations or by starting preparations for it, where a longer deadline is needed (amendments to the Constitution).
2. The development of the Action Plan for the period 2026-2028, which can be updated at the end of 2025, should start without delay on the basis of data on the implementation of the first Action Plan
3. The objectives related to the implementation of the GRECO recommendations should be set in the Strategy so that Serbia fully fulfils its obligations, and in this sense it is necessary for the Government to adopt amendments to this document.
4. The National Assembly, which was not involved in the drafting of the Anti-Corruption Strategy, should consider how it could contribute to its implementation, and introduce a regular practice of reviewing reports on the implementation of the Strategy and Action Plan in the form of a public hearing, once a year.
5. The draft Law on the Prevention of Corruption should be significantly amended, after which a new public debate should be organized on it.
6. The process of amending the Law on Lobbying (Ministry of Justice) and the Law on Free Access to Information of Public Importance (Ministry of Public Administration and Local Self-Government) should be opened without delay in relation to all issues that have proven to be controversial.
7. The Agency for the Prevention of Corruption, the President of the Republic, the Government, ministries and the National Assembly should change the practice of their work, without waiting for changes in regulations, including in the following:
  - a. Regular review of the report of the Anti-Corruption Council and appointment of missing members on the basis of the proposal of the Council itself.
  - b. Publication of information on contacts with lobbyists (persons covered by the current Law), but also with other interested parties.
  - c. Disclosure of information about hired advisors and other persons who provide advisory services.
  - d. Preparation of analyses on corruption risks in regulations, regardless of whether the ministries have requested an opinion on the draft law and publication of information on the treatment of these analyses (Agency).
  - e. Regular handling of requests for access to information of public importance (Government, President).
  - f. Inclusion on the agenda only of those draft laws for which the procedure of public consultation/public debate has previously been conducted and the explanatory memorandum of which contains full information on the impact on the preparation of these regulations (National Assembly).
  - g. Inclusion of members of the Government from 2024, 2022, 2020 and 2016, as well as the President of the Republic and his advisors in the control plan of the statements on assets and income for 2025. (Agency)



8. The Ministry of the Interior should publish and promote the acts it has adopted on the basis of GRECO recommendations.
9. The Ministry of the Interior should plan a wider range of activities related to the implementation of GRECO recommendations, especially when it comes to monitoring compliance with the Code and certain prescribed rules (receiving gifts and additional work of police officers).
10. Upon completion of the competition for the selection of the Director of Police, the Ministry of the Interior should publish information on the basis of which the public will be able to gain insight into whether the best among the candidates has been proposed, and the Government should then appoint the Director without delay.