GRECO: Fifth Round Evaluation Report on USA

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On 12 December 2023, GRECO published its 5th Round Evaluation Report on the United States. The country joined GRECO in 2000 and has already been assessed in four evaluation rounds. According to GRECO, the USA implemented 100% of recommendations in the First Evaluation Round (June 2002), 87% in the Second Evaluation Round (December 2005), 44% in the Third Evaluation Round (May 2011), and 75% in the Fourth Evaluation Round (May 2016).

In December 2021, the country adopted its first ever Anti-Corruption Strategy, which predominantly focuses on the transnational dimensions of corruption. Although criminal and civil anti-bribery statutes and regulations containing rules on ethical conduct apply to nearly all persons in top executive functions (PTEFs), the President and Vice-President [of the United States] are exempt from many of the provisions, except for anti-bribery criminal statutes. In December 2022, the USA adopted the fifth US Open Government National Action Plan, which aims, *inter alia*, to improve access to government data, research and information, and to ensure accountability to the public. However, PTEF contacts with lobbyists are not subject to routine publication, which merits review.

While the Freedom of Information Act establishes the right to access public information, certain difficulties in its practical implementation still require remedy, according to the report. This has led to a backlog of requests under the Freedom of Information Act, which needs to be resolved. Another unresolved issue relates to the limited scope in prohibiting PTEF contacts with agencies and private businesses after their employment.

Against this background, GRECO recommends the following:

- Law enforcement: GRECO acknowledges that the Federal Bureau of Investigation (FBI), the primary investigative arm of the United States government, has robust anti-corruption and integrity policies and tools that are implemented effectively. Nonetheless, the development of a dedicated FBI anti-corruption strategy would be beneficial in terms of signposting the priorities for action in this area.
- Hiring policy: The FBI has also a sound hiring policy and procedure, as vetting and re-vetting processes are strict and comprehensive, and FBI employees are subject to a wide range of ethical standards. Yet, it is no rare occurence to move from the FBI to the private sector (with the possibility to return to the organisation at a later point in time), which is covered by an extensive set of post-employment restrictions. However, the effective application of these restrictions is almost never monitored.
- Whistleblowers: GRECO notes that more needs to be done to equip whistleblowers within the FBI with adequate procedural rights. In particular, like most federal employees under the Whistleblower Protection Act, their complaints should be subject to independent judicial review.

In conclusion, GRECO calls on the United States to continue pursuing its efforts to promote the integrity of persons entrusted with top executive functions, including the personnel of the FBI.

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