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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

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FOURTH EVALUATION ROUND

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

SECOND COMPLIANCE REPORT

UNITED STATES OF AMERICA

Adopted by GRECO at its 87th Plenary Meeting
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I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of the United States to implement the recommendations issued in the Fourth Round Evaluation Report on the United States (see paragraph 2) covering "Corruption prevention in respect of members of parliament, judges and prosecutors".

2. The Fourth Round Evaluation Report on the United States was adopted at GRECO's 74th Plenary Meeting (2 December 2016) and made public on 17 January 2017, following authorisation by the United States.

3. The Compliance Report was adopted by GRECO at its 82nd Plenary Meeting (22 March 2019) and made public on 29 May 2019, following authorisation by the United States. As required by GRECO's Rules of Procedure, the authorities of the United States submitted a Situation Report on further measures taken to implement the pending recommendations. This report was received on 23 December 2020 and served as a basis for the Second Compliance Report.

4. GRECO selected the United Kingdom (with respect to parliamentary assemblies) and Cyprus (with respect to judicial institutions) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Alexia KALISPERA, on behalf of Cyprus, and Mr David MEYER, on behalf of the United Kingdom. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

II. ANALYSIS

5. GRECO, in its Fourth Round Evaluation Report, addressed 12 recommendations to the United States. In the Compliance Report, GRECO concluded that recommendations ii, v, vi, x and xi had been implemented satisfactorily and recommendation ix had been dealt with in a satisfactory manner. Recommendations i, iii, viii and xii had been partly implemented and recommendations iv and vii had not been implemented. Compliance with the pending recommendations is examined below.

Corruption prevention in respect of members of parliament

Recommendation i.

6. GRECO *recommended to consider increasing the transparency of the legislative process leading up to the introduction of new bills in Congress.*

7. It is recalled that that this recommendation was partly implemented in the Compliance Report. GRECO acknowledged the draft legislation underway to increase legislative transparency, particularly regarding one important aspect of that, i.e. lobbyists. GRECO however was of the view that more had to be done to cover other issues at stake in this domain.

8. The authorities of the United States report that they have further considered increasing the transparency of the legislative process, starting with the creation of a Select Committee on the Modernisation of Congress ("Select Committee"). It was established by H. Res. 6 on January 4, 2019 as an evenly divided, select committee of the House of Representatives charged with making Congress more effective, efficient, and transparent, by investigating, studying, making findings, holding public hearings, and developing recommendations around the legislative process.

9. The Select Committee held sixteen hearings, six virtual discussions, and six business meetings. During the hearings, the Members of the Select Committee heard from

academics, outside experts, and former Members of Congress. The Select Committee Members discussed and debated various issues, considered many legislative branch reforms, and ultimately voted on recommendations. As a result of these deliberations, the Select Committee issued ten individual reports and a comprehensive Final Report.

10. The Select Committee spent significant effort considering legislative transparency, in particular. Several of its hearings touched on legislative transparency, and one hearing was dedicated solely to the topic. At that hearing, the Committee discussed and highlighted transparency efforts underway in the House, the value of making legislative information more transparent, and the effect of transparency on the deliberative process in Congress. Specifically, the hearing included testimonies of individual experts regarding progress of Congress on the topic of transparency, as well as the challenges ahead, particularly in the use of technology; modernisation of information systems to help citizens and staff access to free and timely information; efforts made to make information more accessible, understandable and actionable so that users can be more effective advocates; and finally, possible unintended consequences of increased transparency and what to be done to avoid them[1].

11. The authorities highlight that as a result of that hearing, the Select Committee approved a series of recommendations included in the Final Report and sent those recommendations to the appropriate congressional committees of jurisdiction for next steps, which entails them taking up the recommendations[2]. Such recommendations are aimed, *inter alia*, at increasing transparency during the earlies stages of the legislative process, as well as ensuring that all stages of the policymaking process are open to individuals. For example, one recommendation directly targets the main concerns underlying GRECO's recommendation as it calls for modernising the lobbying disclosure system to improve the filing process to more easily permit users to find and track individual disclosures. Specifically, it recommends directing the Clerk of the House and Secretary of the Senate to generate a Congress-wide unique identifier for lobbyists and to disclose that identifier to the public as structured data as part of the lobbying disclosure downloads. The Select Committee recognised that there are multiple stages to developing legislation, and often multiple actors involved, which makes the effort at transparency more challenging. The final aim should be to make it easier for citizens to know who is lobbying Congress, and who is involved in the legislative process. Other recommendations on the transparency front include finalising a new system that allows individuals to easily track how amendments change legislation and the impact of proposed legislation on current law, one-click access to see how Members of Congress vote in committees, publishing a list of active Congressional Member Organisations annually to ensure transparency in the policy making and caucus creation process.

12. The authorities furthermore stress that the reforms recommended by the Select Committee are targeted and specific; their implementation is underway. The authorities underscore that, while the work of the Select Committee was the most relevant and comprehensive consideration of the issues raised by GRECO, it was not the only venue where the United States contemplated how to increase transparency

[1] More detailed info on content of testimonies, as follows:
http://docs.house.gov/meetings/MH/MH00/20190510/109468/HHRG-116-MH00-Wstate-SchumanD-20190510-U2.pdf;
https://docs.house.gov/meetings/MH/MH00/20190510/109468/HHRG-116-MH00-Wstate-ReevesR-20190510.pdf;
https://docs.house.gov/meetings/MH/MH00/20190510/109468/HHRG-116-MH00-Wstate-TaubererJ-20190510-U2.pdf; and
https://docs.house.gov/meetings/MH/MH00/20190510/109468/HHRG-116-MH00-Wstate-LeeF-20190510-U2.pdf.

[2] See Legislation to Reform Congress Passes House (10 March 2020).

in Congress. In addition, the Congressional Transparency Caucus, an official bipartisan Member organisation which seeks to bring openness and accessibility to the federal government, held several briefings, including one dedicated explicitly to increasing legislative transparency. Also, the Problem Solvers Caucus, a Member group in the House of Representatives, helped institute new rules designed to promote increased openness, bipartisanship, and transparency, by instituting a new 'Consensus Calendar' for any bill with more than 290 cosponsors, requiring three days' notice for Committee mark-ups, and preferential treatment for popular bipartisan amendments.

13. Moreover, the authorities also note that several bills addressing the issue were introduced in the first days of the 117th Congressional session, which started in January 2021, including:

- H.R.1, the For the People Act of 2021, establishes a clearinghouse at the Department of Justice that would make available to the public copies of lobbying registration statements in a searchable and sortable format. The bill was introduced on 4 January 2021.

- H.R.22, the Congressional Budget Justification Transparency Act of 2021, which requires agencies to post online any budget justification materials they submit to Congress. The bill was introduced on 4 January 2021 and passed the House on 5 January 2021.

- H.R. 46, the One Bill, One Subject Transparency Act, would require each bill or joint resolution to include no more than one subject and the subject to be clearly and descriptively expressed in the measure's title and would prohibit an appropriations bill from modifying existing law not germane to the subject of the underlying bill. The bill was introduced on 4 January 2021.

- S. 103, a bill aimed in part to ensure accountability and transparency in legislation, was introduced in the Senate on 28 January 2021.

14. GRECO welcomes the comprehensive approach taken by Congress to enhance transparency of law making, particularly at early stages, when prior consultations and preparations are carried out, so that the public is better informed on who is lobbying Congress or involved in the legislative process. The thorough work of the Select Committee to increase the transparency of the early legislative process (e.g. to improve the lobbying disclosure system and the access to such information, to better track legislative changes and the vote in committees, etc.) and, more particularly, the resulting recommendations in its Final Report triggering reform, give proof that due consideration has been paid to recommendation i. GRECO encourages the authorities to pursue their positive action in this regard and implement the recommendations of the Select Committee.

15. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

Recommendation iii.

16. GRECO *recommended that ad hoc disclosures be introduced for situations when an undisclosed conflict between specific private interests of individual Members of Congress may emerge in relation to a matter under consideration in congressional proceedings.*

17. It is recalled that that this recommendation was partly implemented in the Compliance Report. While GRECO welcomed the progress made towards embedding

a culture of ad hoc disclosures, it considered that, for the recommendation to be fully implemented, the disclosure should be based on a more formal requirement.

18. The authorities of the United States indicate that the Select Committee referred above (see under recommendation i) also considered this issue. It however concluded it was satisfied that the periodic disclosures and the robust financial disclosure program adequately protected against conflicts of interest. The authorities further point at the fact that, although narrower in scope than recommendation iii, the House and the Senate do require Members (and senior staff) to disclose negotiations for private employment within three days of commencing such negotiations. They both require Members to certify that they have recused themselves from official activity affecting the potential private employer and make such reporting easy by requiring completing forms that are easily accessible online.

19. GRECO takes note of the information provided. GRECO acknowledged in the Fourth Round Evaluation Report the far-reaching regulations in place preventing conflicts of interest through different regimes of periodic and annual disclosure of Members of Congress; the example provided above on revolving doors is yet another proof of this. That said, GRECO regrets that there is still no statutory requirement on ad hoc disclosures, as recommended. This continues to be a pending matter.

20. Accordingly, GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv.

21. GRECO *recommended that consideration be given to the efficacy of the current regime of Congress' rules relating to "revolving doors" – such as those concerning House Members' possibilities to initiate employment negotiations to become lobbyists after leaving Congress and the quarantine periods applying to former Members of Congress to carry out lobbying activities with representatives of the Congress.*

22. It is recalled that that this recommendation was deemed as not implemented in the Compliance Report. GRECO took note of the initiatives referred to in respect of this recommendation, however, either they did not address the core of the problem (employment after Members of Congress had terminated their office) or, for those legislative initiatives by individual Members with links to the revolving doors issue, they were not sufficiently advanced/supported to justify that the recommendation was indeed met.

23. The authorities reference a number of bills that were introduced in Congress to address this issue in both the current and previous legislative sessions:

- H.R.414, which among other things establishes a 5-year post-employment ban on all lobbying by former Members of Congress. It was introduced on 21 January 2021 and referred to the House Committee on the Judiciary.

- H.R.459, which would go farther than H.R. 414 to prohibit former Members and elected officers of Congress from lobbying Congress at any time after leaving office. It was introduced on 25 January 2021 and referred to the appropriate committees.

- H.R.661, which would require Members of Congress to disclose business ties with foreign entities. It was introduced on 1 February 2021 and referred to the House Committee on House Administration.

- H.R.753, which would among other things establish a 5-year ban on Members of Congress engaging in lobbying activities at the Federal level. Introduced on 3 February 2021 and referred to the appropriate committees.

- S. 2622, Close the Revolving Door Act of 2019. This bill would increase the restrictions on lobbying and the penalties for violations of the lobbying restrictions. It would impose a lifetime ban on any former Senator, Member of the House of Representatives, or elected officer of the Senate or House of Representatives from lobbying any current Member, officer, or employee of Congress, or any employee of any other legislative office. It would also extend a ban from one to six years for officers and employees of the Senate, personal staff of Members, committee staff, leadership staff, and other legislative offices. It would prohibit a registered lobbyist or agent of a foreign principal from being hired for a six-year period by a Member of Congress or a congressional committee with whom they have had a substantial lobbying contact; require a substantial lobbying entity to file annual lists of former Members of Congress and certain highly paid legislative branch officials who provide paid consulting services to the lobbying entity, and increase the civil penalty for violations of disclosure or reporting requirements. The bill was introduced in the Senate on 17 October 2019, read twice, and referred to the Committee on Homeland Security and Governmental Affairs.

- S. 1158, Cleaning Up Washington's Act. This bill would revise lobbying restrictions for senior executive service officials and Members of Congress. Specifically, the bill would increase from two years to five years the post-employment lobbying restrictions on a political appointee compensated on the Executive Schedule. Additionally, it would increase to five years the post-employment lobbying ban on a former Member of the Senate or former Member of the House of Representatives. The bill was introduced in the previous session and will likely be reintroduced in the current session.

- S. 601, BLAST Act. This bill would revise post-employment lobbying ban on former Members and elected officers of Congress. Specifically, it would impose a permanent ban on lobbying contacts by a former Member of the Senate (currently, a two-year ban), a former Member of Congress (currently, a one-year ban), or a former elected officer of the Congress or Senate (currently, a one-year ban). The bill was introduced in the previous session and will likely be reintroduced in the current session.

- H.R. 3326, End the Congressional Revolving Door Act. This bill would prohibit a former Member of Congress or former senior congressional employee who is a registered lobbyist, and entitled to compensation as such, from being eligible for any federal retirement benefits. The bill was introduced in the previous session and will likely be reintroduced in the current session.

24. In the authorities' view, while the above bills have not been enacted, the continued introduction of additional legislation and review by relevant congressional committees nevertheless demonstrate a conscientious and enduring commitment to consider addressing the 'revolving doors' issue, all the more in the context of the new challenges brought about by the novel coronavirus pandemics. They also recognise that, although short of reaching the goals set out by GRECO, the situation created by the novel coronavirus pandemics demanded great attention from the legislative branch and limited fuller consideration of this and other important legislation.

25. GRECO takes note of the initiatives referred to by the authorities, which go in the right direction, but, as the authorities themselves recognise, do not account to full implementation of this recommendation. Most of the initiatives reported were not subject to thorough consideration or discussion in Congressional hearings. GRECO

looks forward to receiving information as to how the 117th Congress approaches the efficacy of the current regime of Congress' rules on revolving doors, including in relation to lobbying activities in respect of former Members.

26. GRECO concludes that recommendation iv has been partly implemented.

Recommendation vii.

27. *GRECO recommended that further measures to reinforce the efficiency of the* supervision *and enforcement of the internal rules of Congress be considered by the appropriate bodies of Congress.*

28. It is recalled that this recommendation was assessed as not implemented in the Compliance Report. GRECO took note of the measures taken to increase the protection of Congress staff rights vis-à-vis Members. It however noted that, although commendable, this action did not go to the core of recommendation vii, which is aimed at increasing the functions (e.g. independence and powers) of the existing monitoring mechanisms, the Ethics Committees in the light of the Office of Congressional Ethics (OCE).

29. The authorities of the United States submit that, in addition to identifying and recommending measures to increase legislative transparency, the Select Committee (for more details on this committee, see under recommendation i) also considered various reforms to the supervision of Congress. While its Final Report did not recommend any specific changes in this respect, the issues were discussed and debated. As the Select Committee Final Report noted: some Members raised concerns about the transparency, efficiency, and potential politicisation of the House Ethics Committee (Ethics Committee) and the Office of Congressional Ethics (OCE), but the Committee did not pass recommendations in this space. Instead, the Final Report concluded that given the extensive ethics rules and guidelines governing staff and Members, future select committees may evaluate outdated and possibly ineffective regulations in need of modernisation.

30. GRECO takes note of the information provided. While it regrets that no further measures to reinforce the functions of the supervision and enforcement mechanisms of Congress have been introduced, it accepts that the issue has been duly considered in the work of the Select Committee on the Modernisation of Congress, as called for by recommendation vii and accepts that the considerations have come to an end as the Select Committee decided to not pass any recommendations. In GRECO's opinion, this has been a missed opportunity to further develop the powers of the OCE, but it would appear that the authorities have not ruled out further considerations of this matter in the future, as criticism in this area is still voiced by some. GRECO can only encourage the authorities to keep this matter under review.

31. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

Corruption prevention in respect of judges

Recommendation viii.

32. GRECO *recommended that the judiciary consider how the system of re-appointments of magistrate judges and bankruptcy judges can ensure judicial independence.*

33. It is recalled that this recommendation was partly implemented in the Compliance Report. While a preliminary assessment, through informal surveys, had been performed in this domain, GRECO was of the view that it was not sufficiently broad in scope and could not tantamount to full consideration of how the system of re-

appointments can ensure judicial independence. In reaching this conclusion, GRECO noted that it was unclear which official judicial institution had considered this matter and to what extent. GRECO also suggested that it would be helpful to obtain more information about the reasons that some judges decide not to seek reappointment.

34. The authorities of the United States refer to additional information collected regarding the reappointment process of judges who do not have life tenure (magistrates and bankruptcy judges). In particular, the United States collected data to confirm that over the past 15 years, nearly all (99%) of the magistrate judges who have sought reappointment have obtained it. Furthermore, the United States has collected information regarding the post-judicial careers of magistrate and bankruptcy judges who choose not to seek reappointment. Regarding reappointment of magistrate judges, from 2006 to mid-2020, 685 magistrate judges who sought reappointment were ultimately reappointed, while only 6 judges were denied reappointment during that period. Put another way, over 99 percent of all magistrate judges who sought reappointment over a 14.5-year period were reappointed. As for those judges who decided to leave the judiciary rather than seeking reappointment, a search of publicly available information shows that many moved on to post-judicial legal careers. This includes many examples of magistrate and bankruptcy judges who left the judiciary to accept prominent legal positions outside the judiciary with private law firms, legal positions at major corporations, and alternative dispute resolution firms, and in academia.

35. By contrast, the authorities submit that they did not discover information suggesting that judges are avoiding applying for reappointment because of concerns about judicial independence. When considering a magistrate judge's application for reappointment the relevant court must follow extensive merit selection procedures, including concrete guidelines and multiple levels of review. The extensive process includes public notice of the judge's interest in reappointment, and solicitation of comments from the bar and public concerning the judge's character and ability. A merit selection panel consisting of lawyers and other members of the community prepares a report for the court, which considers the report and all associated information before making a final decision concerning a judge's reappointment. The authorities indicate that, in their view, the judges basically perceive of their position as the functional equivalent of tenure, due to the length of the appointment itself, the timing of the appointment in terms of their careers, and because of the fairness of the reappointment process.

36. In addition to these additional efforts to collect relevant information, the authorities submit that they also took further steps to ensure that recommendation viii has been considered by the appropriate official institutions within the federal judiciary. In 2019, this issue was reviewed by the Director of the Administrative Office of the U.S. Courts in consultation with the judiciary's representatives to the U.S. GRECO delegation. The Director then asked the Judicial Conference Committee on the Judicial Branch to review and consider this GRECO recommendation at its semi-annual meeting[3]. At its December 2020 meeting, the Committee on the Judicial Branch reviewed this GRECO recommendation, including the GRECO compliance report relating to this recommendation and the additional information referred to above. At the meeting, the judiciary's representatives to the GRECO delegation made a presentation to the full Committee and responded to the Committee's questions. The Committee noted the procedures used to evaluate the merits of non-Article III judges' reappointments and, after careful consideration of all relevant materials and discussion of the issue,

[3] The Judicial Conference of the United States is the policy-making body for the federal courts. The jurisdiction of the Conference's Committee on the Judicial Branch includes addressing problems affecting the judiciary as an institution and affecting the status of federal judicial officers. Judicial Conference members include the chief judge of each judicial circuit, the Chief Judge of the Court of International Trade, and a district judge from each regional judicial circuit. The Chief Justice of the United States is the presiding officer of the Judicial Conference, and the Director of the Administrative Office of the United States Courts serves as Secretary to the Judicial Conference.

determined that there appears to be no material flaw in the existing system for reappointment of magistrate judges and bankruptcy judges. For the authorities, these consultations with the Director and with the Committee on the Judicial Branch provide evidence that the concerns at the root of this recommendation are being fully examined by the appropriate institutions within the judiciary.

37. GRECO takes note of the update provided which sheds further light on the issue of re-appointment of magistrate and bankruptcy judges, as suggested in the Fourth Round Evaluation Report (paragraph 167). GRECO notes that the matter has been considered by judicial institutions, even though no substantial proposals or changes have followed in this area. For GRECO, tenure until retirement is a matter of principle to protect judicial independence for judges at all levels. Nevertheless, the appropriate authorities have, pursuant to GRECO's recommendation, considered how the system of re-appointments ensures judicial independence and provided reassurance that the re-appointment processes for these categories of judges are guided by various safeguards.

38. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

Recommendation xii.

39. *GRECO recommended i) that further appropriate measures be taken to ensure that intentional or reckless professional misconduct by federal prosecutors be investigated and sanctioned within a framework of transparent proceedings, including in appropriate cases by bodies with adequate autonomy and independence; and ii) that the public transparency of these proceedings involving federal prosecutors be enhanced, with due regard to the right of privacy and effective defence of the federal prosecutors concerned.*

40. It is recalled that this recommendation was partly implemented in the Compliance Report. As far as the first part of the recommendation is concerned - dealing with transparency, autonomy and independence of disciplinary proceedings against prosecutors - GRECO welcomed the Inspector General Access Act of 2019, which provided some steps in that direction. Concerning the second part of the recommendation – relating to public transparency in general, some steps had been taken to increase transparency, however, GRECO found that for both components of recommendation xii, more needed to be done to achieve full implementation.

41. The authorities of the United States emphasise that the Department of Justice's Office of Professional Responsibility (OPR) has taken additional steps to increase transparency of disciplinary proceedings. In addition to its Annual Reports, OPR now posts on its website anonymised summaries of each of its misconduct investigations shortly after they are concluded. For example, summaries of sixteen misconduct investigations concluded in 2020 were posted on OPR's website. The authorities provide further details on several cases where OPR publicised full reports of investigation - with no or minimal redaction (this was done in relation to particularly serious cases where the public interest outweighed the individual privacy interests of the prosecutors concerned)

42. The authorities add that to provide greater transparency into the handling of misconduct investigations more generally, OPR has added to its website an extensive Frequently Asked Questions section, which thoroughly explains, among other things, OPR's mission, its investigative process, and when and how OPR publicly discloses its findings. OPR has also added to its website an online complaint form which provides an easier and more efficient method for filing, receiving, and processing complaints.

43. As a point of clarification regarding the autonomy and independence of OPR, the authorities underscore that OPR is fully independent from the prosecutors and civil attorneys whom it investigates. It is a separate office within the Department of Justice with a management structure that is distinct from the management of the Department's prosecutorial offices and litigating divisions. In addition, OPR conducts and reports on misconduct investigations with the same degree of transparency as does the Office of the Inspector General (OIG). Although the Privacy Act precludes OPR's professional misconduct investigations and any ensuing disciplinary process from being conducted with any greater transparency than is currently afforded, that is also true of the OIG, which, like OPR, conducts and reports on its misconduct investigations in compliance with the Privacy Act. In sum, it is not a lack of autonomy or independence that precludes OPR from making more of its findings public, but the necessary constraints of the Privacy Act, which apply to both OPR and the OIG. Moreover, OPR complies with requests from Congress to review specific OPR reports of investigation in high-profile and other matters regardless of their sensitivity, thus further proving its autonomy. An example of a recent case was provided by the authorities in this respect, as a way to illustrate the responsiveness of OPR to Congress's requests for information about specific investigations[4].

44. Finally, in relation to the remarks made in the Fourth Evaluation Round Report regarding the difference between complaints filed and the number of cases actually being investigated by the OPR, the authorities highlight that OPR's Annual Report does publicly explain why a large number of complaints received by OPR do not warrant investigation. For example, OPR's 2020 Annual Report explains that in fiscal year 2020, OPR received 863 complaints, of which 289, or 33%, were from incarcerated individuals. Many of those 863 complaints related to matters that do not fall within OPR's jurisdiction. Others sought information or assistance and were referred to the appropriate government agency or Department component. OPR determined that 30 of the complaints alleged professional misconduct and warranted further review by OPR attorneys, and OPR opened inquiries or full investigations on those matters. The remaining matters did not warrant further inquiry or investigation by OPR because, for example, they sought review of allegations that were under consideration by a court, or had been considered and rejected by a court, or because they were frivolous, vague, or unsupported by the evidence. Those matters were addressed by experienced OPR management analysts, working under the supervision of an OPR attorney, through correspondence or referral to another Department of Justice component or government agency.

45. GRECO welcomes the positive measures adopted to increase general transparency of disciplinary proceedings and their outcomes (with due regard to the right of privacy and effective defence of the federal prosecutors concerned). In this connection, OPR currently provides a public annual accounting of the number of complaints it receives, how many are opened as inquiries or investigations, and why the remaining complaints do not warrant an OPR inquiry or investigation. In addition, OPR continues to improve its website to better inform the public of what OPR has investigated and what matters are appropriate for OPR's review.

46. As to measures taken in order to improve the situation of autonomy and independence of the investigating authority, which is called for in the first part of the recommendation, GRECO, in the Compliance Report welcomed draft legislation (Inspector General Access Act of 2019), which provided the Inspector General with the authority to investigate certain claims of prosecutorial misconduct. While the bill was passed by the House of Representatives in January 2019, subsequently taken up and reported out of the Committee of the Judiciary and placed on the Senate legislative calendar in 2020, it was not passed in the 116th Congressional session. The authorities indicated that it is generally the case with bills that remain pending

[4] See: https://www.nytimes.com/2019/07/12/us/politics/acosta-resigns-trump.html.

at the end of the session that they are reintroduced in the current session. However, the fact is that, at present, the OPR, which is an internal body of the Department of Justice, remains the investigating body in respect of prosecutors as it was described in the Evaluation Report. Consequently, the first part of the recommendation is still partly implemented while the second part has been complied with.

47. GRECO concludes that recommendation xii remains partly implemented.

III. CONCLUSIONS

48. **In view of the foregoing, GRECO concludes that the United States have implemented satisfactorily or dealt with in a satisfactory manner nine of the twelve recommendations contained in the Fourth Round Evaluation Report.** The three remaining recommendations have been partly implemented.

49. More specifically, recommendations ii, v, vi, x and xi have been implemented satisfactorily and recommendations i, vii, viii and ix have been dealt with in a satisfactory manner, recommendations iii, iv and xii have been partly implemented.

50. As regards Members of Congress, additional measures are underway to enhance transparency of law making, particularly at early stages, when prior consultations and preparations are carried out. Due attention has also been paid to the system of supervision of Congress' internal rules, as recommended, but no change has resulted in the end. The authorities do not rule out revisiting this important matter in the future, a possibility that GRECO welcomes since it believes that the system could well benefit from further development of OCE's powers. The establishment of a statutory requirement on ad hoc disclosures, for situations when an undisclosed conflict between specific private interests of individual Members of Congress may emerge in relation to a matter under consideration in congressional proceedings, remains pending. Likewise, the issue of revolving doors, including in relation to lobbying activities in respect of former Members of Congress, deserves further consideration. The introduction of a few bills in Congress, the advancement of which is uncertain, is not sufficient in this respect.

51. Concerning judges, additional clarifications have been provided to substantiate the system of re-appointments of magistrate and bankruptcy judges in relation to judicial independence. Finally, in respect of prosecutors, the OPR has substantially upgraded the transparency of procedures against prosecutors accused of various forms of misconduct (with due regard to individual rights of privacy and effective defence), but more can be done to improve autonomy and independence in this area.

52. It is to be welcomed that virtually all recommendations have been duly considered by the authorities and targeted improvements have occurred on most fronts to enhance corruption prevention mechanisms in respect of the legislature, judges and prosecutors. The adoption of the Second Compliance Report terminates the Fourth Round Compliance procedure in respect of the United States.

53. Finally, GRECO invites the authorities of the United States to authorise, as soon as possible, the publication of the report.