SAINT VINCENT AND THE GRENADINES

FINAL REPORT

(Adopted at the September 12, 2019 plenary session)
SUMMARY

This Report contains a comprehensive review of the implementation of the Recommendations that were formulated to Saint Vincent and the Grenadines in the Report of the Second Round with respect to paragraphs 5 and 8 of Article III of the Inter-American Convention against Corruption, which refer, respectively, to systems of government hiring and procurement of goods and services and for the protection of public servants and private citizens who, in good faith, Report acts of corruption. Reference is also made, when appropriate, to new developments with respect to the implementation of these provisions.

In addition, the Report includes a comprehensive review of the implementation in Saint Vincent and the Grenadines of paragraphs 3 and 12 of Article III of the Convention, which refer, respectively, to measures intended to create, maintain and strengthen instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities; and a study of further preventive measures that take into account the relationship between equitable compensation and probity in public service. These provisions were selected by the MESICIC Committee of Experts for the Fifth Round.

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee’s Rules of Procedure, and the methodologies it has adopted for conducting on-site visits and for the Fifth Round, including the criteria set out therein for guiding the review based on equal treatment for all states parties, functional equivalence, and the common purpose of both the Convention and the MESICIC of promoting, facilitating, and strengthening cooperation among the states parties in the prevention, detection, punishment, and eradication of corruption.

The review was carried out mainly taking into account the Response to the Questionnaire by Saint Vincent and the Grenadines and information gathered during the on-site visit conducted between March 26 – 28, 2019 by the representatives of Antigua and Barbuda and Canada, with the support of the Technical Secretariat. During that visit, the information furnished by Saint Vincent and the Grenadines was clarified and supplemented with the opinions of civil society organizations.

With regard to the follow-up on the recommendations formulated to Saint Vincent and the Grenadines in the Second Round and with respect to which the Committee, in the Third Round report, found required additional attention, based on the methodology for the Fifth Round and bearing in mind the information provided by Saint Vincent and the Grenadines in its Response to the Questionnaire and during the on-site visit, a determination was made as to which of those recommendations had been satisfactorily implemented, which required additional attention, which required reformulation and which were no longer valid.

With respect to acts of corruption, it is pertinent to highlight that Saint Vincent and the Grenadines has criminalized the fraudulent use or concealment of property derived from any acts of corruption; and the criminal code includes the modalities of participation as a principal, coprincipal, instigator, accomplice or accessory after the fact, or in any manner, in the commission or attempted commission of any act of corruption.

Some of the recommendations formulated in the Second Round that remain valid or have been reformulated address issues such as developing the different stages that comprise the process of selecting and appointing public servants; adopt a legal instrument of general application to regulate government systems for the procurement of goods and services, based on the principle of public tendering; and adopt a
comprehensive legal and regulatory framework that provides protection of public servants and private citizens who, in good faith, report acts of corruption.

In addition, regarding the new developments in Saint Vincent and the Grenadines with respect to the implementation of the provisions of the Convention selected for the Second Round, the Committee formulated recommendations, such as ensuring that the Public Service Commission’s website is updated on a timely basis, in order to advertise the job vacancies in the public sector and other information related to systems of hiring of public officials, as well as other related institutional information; adopt training for public servants and relevant stakeholders on the Public Procurement Act 2018; and reviewing the sanctions in place for acts of corruption to determine if they are of sufficient deterrence.

For the review of the first provisions selected for the Fifth Round that refer to instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, as set out under Article III, paragraph 3 of the Convention, in keeping with the methodology for this Round, the country under review chose the Training Division of the Service Commissions Department.

This review was focused on determining, with respect to the selected personnel, if the country under review has adopted provisions and/or measures which ensure the proper understanding of their responsibilities and the ethical rules governing their activities; the manner or occasions in which personnel are provided instructions; the programs in place for them; the bodies responsible for them; as well as the objective results obtained on the implementation of said provisions and/or measures, taking into account any difficulties and/or weaknesses to achieve the purpose of this provision of the Convention. At the same time, it took note of any difficulties and/or shortcomings in accomplishing the object of that provision of the Convention.

Some of the recommendations formulated to Saint Vincent and the Grenadines, for its consideration, with respect to this topic, are noted as follows:

Consider adopting legal provisions that make it mandatory for public servants to receive instructions which ensure proper understanding of their responsibilities; consider adopting legal provisions that make it mandatory for public servants to receive instructions on the ethical rules that govern their activities; establish formal mandatory induction programs to be implemented by all departments in the public service under the purview of the Service Commissions Department; establish formal mandatory induction programs on the ethical rules that govern the activities of public servants for the personnel of the Training Division of the Service Commissions Department and the departments in the public service that fall under its purview; require that public servants be informed of the ethical rules that govern their activities, when there is a change in their functions, when a different set of ethical rules is applied, or when changes are made to those rules; and designate a body to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities.

In accordance with the aforementioned methodology, the review of the second provision selected for the Fifth Round, as set out under Article III, paragraph 12 of the Convention, sought to determine whether Saint Vincent and the Grenadines has studied preventive measures that take into account the relationship between equitable compensation and probity in public service and whether it has established objective and transparent guidelines for determining civil servant remunerations. On that basis, it was recommended that Saint Vincent and the Grenadines consider take the necessary steps to make sure that all documents, legislation and circulars related to salaries scales, including the Estimates of Revenue and Expenditures are readily accessible online to the general public; and take the necessary steps to make sure that the
current salaries of the Ministers, Parliamentarians and the Judiciary are readily accessible online to the general public.
COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM ON THE IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

FINAL REPORT ON FOLLOW-UP ON IMPLEMENTATION IN SAINT VINCENT AND THE GRENADINES OF THE RECOMMENDATIONS FORMULATED AND PROVISIONS REVIEWED IN THE SECOND ROUND, AND ON THE PROVISIONS OF THE CONVENTION SELECTED FOR REVIEW IN THE FIFTH ROUND

INTRODUCTION

1. Content of the Report

[1] As agreed upon by the Committee of Experts (hereinafter “the Committee”) of the Follow-Up Mechanism for Implementation of the Inter-American Convention against Corruption (“MESICIC”) at its Twenty-Fourth Meeting, this Report will first refer to follow up on implementation of the recommendations formulated to Saint Vincent and the Grenadines in the Report from the Second Round, and which were deemed by the Committee to require additional attention in the Report from the Third Round.

[2] Second, where applicable, it will refer to new developments in Saint Vincent and the Grenadines with regard to the provisions of the Inter-American Convention against Corruption (hereinafter "the Convention") selected for the Second Round, and regarding such matters as the legal framework, technological developments and results, and, if applicable, appropriate observations and recommendations will be formulated.

[3] Third, it will address implementation of the provisions of the Convention selected by the Committee for the Fifth Round. Those provisions are contained in paragraphs 3 and 12 of Article III regarding, respectively, measures to establish, maintain, and strengthen “instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities”, and “the study of preventive measures that take into account the relationship between equitable compensation and probity in public service.”

2. Ratification of the Convention and adherence to the Mechanism


I. SUMMARY OF INFORMATION RECEIVED

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1 This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on September 12, 2019, at its Thirty-Third meeting, held at OAS Headquarters, September 9 – 12, 2019.
2 See the Minutes of the 24th Meeting of the Committee, available at: http://www.oas.org/juridico/docs/XXIV_min.doc
4 Available at: http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic3_svg_rep.pdf
1. Response of Saint Vincent and the Grenadines

[6] The Committee wishes to acknowledge the cooperation that it received throughout the review process from Saint Vincent and the Grenadines, in particular from the Attorney General’s Chambers, which was evidenced, inter alia, in its Response to the Questionnaire, in the constant willingness to clarify or complete its contents, and in the support for the execution of the on-site visit referred to below. Together with its Response, Saint Vincent and the Grenadines sent the provisions and documents it considered pertinent.5

[7] The Committee also notes that Saint Vincent and the Grenadines gave its consent for the on-site visit, in accordance with provision 5 of the Methodology for Conducting On-site Visits.6 That visit was conducted from March 26 – 28, 2019 by the representatives of Antigua and Barbuda and Canada, in their capacity as members of the review subgroup, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this Report, and the agenda of meetings is attached hereto, in keeping with provision 34 of the above-mentioned Methodology.

[8] For its review, the Committee took into account the information provided by Saint Vincent and the Grenadines up to March 28, 2019, as well as that furnished and requested by the Technical Secretariat and the members of the review subgroup, to carry out their functions in keeping with the Rules of Procedure and Other Provisions;7 the Methodology for the review of the provisions of the Convention selected for the Fifth Round;8 and the Methodology for Conducting On-site visits.

2. Documents and information received from civil society organizations and/or, inter alia, private sector organizations, professional associations, academics, and researchers

[9] The Committee did not receive documents from civil society organizations within the time frame established in the schedule for the Fifth Round, as envisaged by Article 34(b) of the Committee’s Rules of Procedure.

[10] Nonetheless, during the course of the on-site visit, information was gathered from civil society, private sector organizations and professional associations invited to participate in meetings to that end, pursuant to Article 27 of the Methodology for Conducting On-site Visits. A list of those persons is included in the agenda for the visit, which is appended hereto. Pertinent parts of this information are reflected in the appropriate sections of this Report.

II. FOLLOW UP ON IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE SECOND ROUND AND NEW DEVELOPMENTS WITH REGARD TO THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THAT ROUND

[11] First, the Committee will refer to progress made and new information and developments in Saint Vincent and the Grenadines with respect to the recommendations formulated and measures for their implementation suggested by the Committee in its Report from the Second Round,9 that were deemed to require additional attention in the Report of the Third Round,10 and it will proceed to take note of those

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6 Available at: http://www.oas.org/juridico/english/met_onsite.pdf
7 Available at: http://www.oas.org/juridico/PDFs/mesicic4_rules_en.pdf
8 Available at: http://www.oas.org/juridico/PDFs/mesicic5_metodologia_en.pdf
that have been satisfactorily considered and those that require additional attention from the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and measures and, as applicable, restate or reformulate them in accordance Section V of the Methodology adopted by the Committee for the Fifth Round.

[12] In this section, the Committee will, where applicable, take note of any difficulties indicated by the country under review with implementing the recommendations and measures alluded to in the foregoing paragraph and of any technical cooperation requested by the State in that connection.

[13] Second, where applicable, it will refer to new developments in Saint Vincent and the Grenadines in respect of the provisions of the Convention selected for the Second Round regarding such matters as the legal framework, technological developments and outcomes, and will formulate any observations and recommendations that may be applicable.

1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)

1.1. SYSTEMS OF GOVERNMENT HIRING

1.1.1. Follow up on Implementation of the Recommendations Formulated in the Second Round

Recommendation 1.1:

Strengthen the systems of government hiring.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop, through the relevant legal and/or administrative procedures, the different stages that comprise the process of selecting and appointing public servants, by adopting provisions and clearly defined criteria that ensure access to the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention.

[14] In its Response to the Questionnaire, with respect to the aforementioned measure, the country presents the following information:\[11\]

[15] “Every vacancy is advertised through Government gazettes or newspapers. First time employees are subjected to one year or 2-year contracts. Upon successful review of their contractual performance, they may be employed in the civil service. Appointments are done by the constitutionally appointed Public Service Commission after meetings and discussions. Vacancies are advertised as well on the website: www.gov.vc.

[16] The Public Service Commission is developing a Human Resource Management and Development Plan and they are working with governmental and non-governmental agencies in the production of a Human Resource Data base of Qualified professionals.”

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During the on-site visit, representatives of the Public Service Commission noted that Section 19 of the Public Service Commission Regulations makes reference to the criteria governing the selection of public servants with respect to promotion, which includes seniority, experience, educational qualifications, merit and ability. The officials acknowledged the need for updating the Public Service Commission Regulations (1969) and the Civil Service Orders (1970), since the system of government hiring requires significant changes.

In that regard, the Committee notes that provisions contained in the Public Service Commission Regulations, including Section 19, were considered by the Committee in the Report of Saint Vincent and the Grenadines in the Second Round of Review.

Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to implementation of measure a) of the recommendation 1.1. (See Recommendation 1.1.3.1 in Section 1.1.3 of Chapter II of this Report)

In addition, the Committee did not have access to manuals or guides that would make reference to ‘merit’ in the hiring process, and the manner this is to be assessed. The Committee also could not find any circulars in the webpage of the Services Commissions Department that addressed merit in the hiring process.

Given the foregoing, the Committee notes that the country under review should consider adopting, through the appropriate legislative and/or administrative procedures, provisions that explicitly provide that government hiring into the public service is to be based on the principle of merit and set out the manner merit is to be carried out or assessed, such as using written competitive examinations, practical tests and interviews, and develop systems accordingly. (see Recommendation 1.1.3.2 of Section 1.1.3 of Chapter II of this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Continue to strengthen the Public Service Commission so that it has the necessary human and financial resources and the adequate operational independence to administer the hiring system with objectivity and impartiality, and to objectively discharge its duties.

In its Response to the Questionnaire, with respect to the aforementioned measure, the country presents the following information:

“The budget allocation of the Public Service Commission has increased from 15,154,328 EC Dollars million EC Dollars to 21, 545,160 EC Dollars in 2018. It is estimated to increase to 23, 899,233 EC Dollars in 2020. The staff has been operating quite efficiently at its current implement. The budget for training has increased from 5.6 million in 2016 to 12.1 million in 2018. During each quarter, the Service Commission engages in sessions to address common human resource challenges. Staff development sessions are conducted twice monthly.”

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15 See the webpage of the Services Commissions Department at: [http://psc.gov.vc/psc/index.php](http://psc.gov.vc/psc/index.php)
16 Response to the Questionnaire, pg. 1, supra note 11.
During the on-site visit, representatives of the Public Service Commission pointed out that the Commission basically has auditing functions and that supervisors are reluctant to take action against personnel that are not working efficiently and effectively. In this regard, the officials mentioned the need for additional personnel within the Commission especially employees with a legal background to provide it with continuous and timely legal advice. The representatives also restated the need for updating the Civil Service Orders and the Regulations in order to strengthen the Commission, and explained that the major challenge for revising these Orders is the absence of a Public Service Act. According to the officers, a draft that has been prepared and presented to the Office of the Attorney General for review.17

Given the foregoing, the Committee believes that the country under review should consider adopting a Public Service Act to provide the Public Service Commission with adequate operational independence to administer the hiring system with impartiality and to objectively discharge its duties. Therefore, the Committee reiterates the need for the country under review to give additional attention to measure b) of recommendation 1.1 and considers it appropriate to reformulate it by breaking it down into two separate recommendations, given that it contains independent elements, and also to make explicit reference to the need to consider the adoption of a Public Service Act and the hiring of employees with a legal background to provide the Commission with continuous and timely legal advice. (See Recommendations 1.1.3.3 and 1.1.3.4 in Section 1.1.3 of Chapter II of this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the relevant legal and/or administrative procedures, provisions establishing adequate control mechanisms to ensure strict compliance with the norms for the selection of public servants.

In its Response to the Questionnaire, with respect to the aforementioned measure, the country presents the following information:18

“The Civil Service orders are currently being revised in order to streamline all procedures relating to the public service. The Public Sector Reform Unit under a series of consultations during the months of October and November 2018 in order to ascertain changes to the Civil Service Orders.”

During the on-site visit, representatives of the Public Service Commission highlighted the need for stronger accountability systems of officers in senior positions, since they also have major responsibilities ensuring strict compliance with the norms for the selection of public servants and recommended the implementation of a performance management system.

In light of the foregoing and bearing in mind the information gathered during the on-site visit, the Committee finds that the current legal framework does not contain provisions establishing adequate control mechanisms to ensure strict compliance with the norms for the selection of public servants. Therefore, the Committee reiterates the need for the country under review to give additional attention to measure c) of recommendation 1.1. (See Recommendation 1.1.3.5 in Section 1.1.3 of Chapter II of this Report)

The Committee notes it observed in the Report of Saint Vincent and the Grenadines in the Fourth Round of Review that it would be useful for the country under review to consider updating the Civil

18 Response to the Questionnaire, pg. 2, supra note 11.
Service Orders, and a recommendation made in this respect, when examining the Service Commissions Department: 19

[31] “...the Committee believes, in connection with the former, that it would be useful for the State under review to consider updating them and bringing them into line with the current standards necessary for the correct, honorable, and due performance of public duties, bearing in mind that those Orders predate the Constitution itself and contain provisions that do not apply to the present circumstances. The Committee believes this would assist in attaining the objective contained in Article III, paragraph 9, of the Convention, whereby the SCD [Service Commissions Department], as an oversight body, could develop modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts.”

[32] The matters raised in the recommendation of the Fourth Round should also be considered and addressed by the country under review, as it is relevant for the legal framework in place for the systems of government hiring.

Measure d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, through the appropriate legal and/or administrative procedures, provisions and mechanisms that contain clearly defined criteria for the advertisement of opportunities or vacancies into the public service, provide for their content and form as well as the time frame in which they should be advertised, and which take into account the use of the mass media, such as newspapers with national circulation and/or websites, among others.

[33] In its Response to the Questionnaire, with respect to the aforementioned measure, the country presents the following information: 20

[34] “Every vacancy is advertised through Government gazettes or newspapers. First time employees are subjected to 1 year or 2-year contracts. Upon successful review of their contractual performance, they may be employed in the civil service. Appointments are done by the constitutionally appointed Public Service Commission after meetings and discussions. Vacancies are also advertised on the website on www.gov.vc”

[35] During the on-site visit, representatives of the Public Service Commission noted that not all vacancies are advertised and this is only done where it is found to be more advantageous to the public service to do so and/or to fulfill specialized skill or technical expertise. 21 The representatives also stated that entry level positions are not advertised since preference is given to those people already trained in the public service. In addition, they mentioned that the advertisement period is, in practice, 2 weeks but there are no documents or provisions stating the time frame in which they should be advertised.

[36] In this regard, the Committee did not have access to manuals, guides or any other administrative procedures, provisions or mechanisms that contained clearly defined criteria for the advertisement of opportunities or vacancies into the public service. The Committee also could not find any circulars that addressed advertisement in the hiring process or any permanent vacancies published or the webpage of the Services Commissions Department. 22 The few vacancies published on the government’s website

20 Ibid.
21 Presentation, Public Service Commission, pg. 6, supra note 17.
22 See the webpage of the Services Commissions Department at: http://psc.gov.vc/psc/index.php/vacancies
(www.gov.vc) referred to consultancies or temporary positions for specific projects and none of them were permanent public service positions.

[37] In light of the foregoing and bearing in mind the information gathered during the on-site visit, the Committee finds that the current legal or administrative framework does not contain clearly defined criteria for the advertisement of opportunities or vacancies into the public service, nor the specific length of time for which Public Service hiring opportunities or vacancies must be advertised, nor does it envisage use of the Internet. Therefore, the Committee reiterates the need for the country under review to give additional attention to measure d) of recommendation. (See Recommendation 1.1.3.6 in Section 1.1.3 of Chapter II of this Report)

[38] In this respect, during the on-site visit, the Public Service Union (PSU) also indicated that vacancies within the public service are rarely advertised and that the Public Service Commission does not make this a practice.

Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Adopt, through the respective legal and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantive acts that are part of the procedures to recruit and select personnel, ensuring a timely, objective, impartial, and effective procedure.*

[39] In its Response to the Questionnaire, with respect to the aforementioned measure, the country presents the following information:23

[40] “Public Servants are entitled to Judicial Review of decisions of the Public Service Commission or of their respective heads of departments or ministries via ART 56 of Eastern Caribbean Civil Procedure Rules.”

[41] The Committee also notes that, during the on-site visit, representatives of the Public Service Commission explained that, in practice, the Commission tries to mediate the situation between the permanent secretaries and the individual, but that there are no official administrative challenge mechanisms established.

[42] Bearing in mind the foregoing, the Committee reiterates the need for the country under review to give further attention to the implementation of measure e) of the aforementioned recommendation. (See Recommendation 1.1.3.7 in Section 1.1.3 of Chapter II of this Report)

[43] In addition, the Committee also considers it relevant that the country under review to consider strengthening the legal provisions regarding the Public Service Commission to ensure that it has the competence to revoke or take other corrective measures when is found that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition. The Committee will formulate a recommendation. (See Recommendation 1.1.3.8 in Section 1.1.3 of Chapter II of this Report)

1.1.2. New Developments with Respect to the provisions of the Convention on Systems of Government Hiring

1.1.2.1. New Developments with Respect to the Legal Framework

23 Response to the Questionnaire, pg. 2, supra note 11.
The country under review did not provide any information on new developments with respect to the legal framework either in its Response to the Questionnaire or during the on-site visit.

1.1.2.2. New Developments with Respect to Technology

The country under review did not provide any information on new developments with respect to technology either in its Response or during the on-site visit.

Notwithstanding the foregoing, the Committee takes note that the Public Service Commission does have a website (http://www.psc.gov.vc/psc/) which contains relevant information such as their mission and vision statements, application forms for employment, a copy of the Civil Service Orders, some training and scholarship opportunities, its contact information, among other sections.

The Committee takes note of the aforementioned technological development by the country under review. Taking into consideration that the Committee has formulated recommendations in the preceding sections on the online advertisement of vacancies and the publication of other institutional information related to the systems of hiring public officials, the Committee believes that it would be beneficial for the country under review to consider taking the necessary measures to ensure that the Commission’s website is updated in a timely manner, which would contribute to the transparency, efficiency and openness of the systems for the selection of public officials. The Committee will formulate a recommendation. (See Recommendation 1.1.3.9 in Section 1.1.3 of Chapter II of this Report)

1.1.2.3. Results

During the on-site visit, representatives of the Public Service Commission estimated that the government of Saint Vincent and the Grenadines currently employs 6100 established workers and approximately 4500 non-established workers.

The Committee observes that the importance of maintaining statistics on the system for government hiring in the country under review. In this regard, it notes the that Public Service Regulations, as well as the Civil Service Orders, set out different manners that appointments can be made for entry into the public service: pensionable, non-pensionable, minor-salaried, temporary appointments, and on contract.

To that end, the Committee considers that the country under review should consider maintaining statistics on the number of competitions carried out in a year for each of these modalities for entry into the public service, how many were advertised, how many were completed, how many were abandoned, how many persons applied to a position, as well as the number of persons entering into the public service in a given year. The lack of information makes it hard for the Committee to determine the efficiency and transparency of the government hiring system in place. The Committee will formulate a recommendation.24 (See Recommendation 1.1.3.10 in Section 1.1.4 of Chapter II of this Report)

In addition, although the Committee notes that the country under review does not have in place administrative challenge mechanisms to clarify, modify or revoke substantive acts that are part of the procedures to recruit and select personnel, it would still be beneficial for Saint Vincent and the Grenadines to consider maintaining and publishing statistics on the number of complaints the Public Service Commission receives from applicants, and their outcome, regarding an external appointment

24 The country under review, in its observations to the draft preliminary report, notes that due to the timeframe of the request it was not possible to tabulate the information required. However all information requested at paragraph 50 is available through the Public Service Commission.
process. The Committee will formulate a recommendation. (See Recommendation 1.1.3.11 in Section 1.1.4 of Chapter II of this Report)

1.1.3. Recommendations

[52] In light of the observations formulated in sections 1.1.1 and 1.1.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

1.1.3.1 Consider developing, through the relevant legal and/or administrative procedures, the different stages that comprise the process of selecting and appointing public servants, by adopting provisions and clearly defined criteria that ensure access to the public service, always taking into account the principles of openness, equity and efficiency as provided in the Convention. (See paragraph 19 of Section 1.1.1 of Chapter II of this Report).

1.1.3.2 Consider adopting, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the Public Service is to be based on the principle of merit and set out the criteria which will be taken into account in making this determination, such as written competitive examinations, practical tests and interviews, and develop this system accordingly (See paragraph 21 of Section 1.1.1 of Chapter II of this Report).

1.1.3.3 Consider strengthening the Public Service Commission, by adopting a Public Service Act, reviewing the Public Service Regulations as well as the Civil Service Orders, so that the Commission has the adequate operational independence to administer the hiring system with impartiality and to objectively discharge its duties (See paragraphs 25 of Section 1.1.1 and 47 of Section 1.1.2 of Chapter II of this Report).

1.1.3.4 Provide the Public Service Commission with the necessary human resources and, in particular, with employees that can provide continuous and timely legal advice, within available resources (See paragraph 25 of Section 1.1.1 of Chapter II of this Report).

1.1.3.5 Consider adopting, through the relevant legal and/or administrative procedures, provisions establishing adequate control mechanisms to ensure strict compliance with the norms for the selection of public servants. (See paragraph 29 of Section 1.1.1 of Chapter II of this Report).

1.1.3.6 Consider adopting, through the appropriate legal and/or administrative procedures, provisions and mechanisms that contain clearly defined criteria for the advertisement of opportunities or vacancies into the public service, provide for their content and form as well as the time frame in which they should be advertised, and which take into account the use of the mass media, such as newspapers with national circulation and/or websites, among others. (See paragraph 37 in Section 1.1.1 of Chapter II of this Report)

1.1.3.7 Consider adopting, through the respective legal and/or administrative procedures and in keeping with the principle of due process, provisions for the establishment of administrative challenge mechanisms to clarify, modify or revoke substantive acts that are part of the procedures to recruit and select personnel, ensuring a timely, objective, impartial, and effective procedure. (See paragraph 42 in Section 1.1.1 of Chapter II of this Report)
1.1.3.8 Consider strengthening the legal provisions regarding the Public Service Commission to ensure that it has the competence to revoke or take other corrective measures when is found that an appointment process was, among other things, irregular, improper, or made through a fraudulent competition. (See paragraph 43 in Section 1.1.1 of Chapter II of this Report)

1.1.3.9 Ensure the Public Service Commission’s website is updated on a timely basis, in order to advertise the job vacancies in the public sector and other information related to systems of hiring of public officials, as well as other related institutional information. (See paragraph 47 Section 1.1.1 of Chapter II of this Report)

1.1.3.10 Compile and publish statistics, as it pertains to entry into the public service through pensionable appointments, non-pensionable appointments, minor-salaried appointments, temporary appointments, and on contract, on the number of competitions carried out in a year for each of these modalities for entry into the public service, how many were advertised, how many were completed, how many were abandoned, how many persons applied to a position, as well as the number of persons entering into the public service in a given year, in order to identify challenges and recommend corrective measures where appropriate (See paragraph 50 of Section 1.1.2 of Chapter II of this Report)

1.1.3.11 Maintain and publish statistics on the number of complaints the Public Service Commission receives from applicants regarding an external appointment process, and their outcome, in order to identify challenges and recommend corrective measures where appropriate (See paragraph 51 of Section 1.1.2 of Chapter II of this Report)

1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES

1.2.1. Follow-Up to the Implementation of the Recommendations Formulated in the Second Round

Recommendation 1.2.1:

Promote the adoption of standards that guarantee the principles of openness, equity and efficiency as provided in the Convention, in government systems for the procurement of goods and services.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Adopt, taking into account the existing legal initiative, a legal instrument of general application and with the force of law to regulate government systems for the procurement of goods and services, based on the principle of public tendering, without detriment to the possibility of establishing different modalities of tendering in exceptional cases that are clearly set forth in the law

[53] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure; 25

25 Response to the Questionnaire, pg. 3, supra note 11.
“The Finance Administration Act makes very general reference to aspects of procurement. There are in existence local procurement guidelines which are very dated and are used for projects of minor value. There is a procurement bill currently being drafted with assistance from consultants at the World Bank for major projects especially those which are World Bank funded. The World Bank Procurement Regulations are applied.”

During the on-site visit, representatives of the Ministry of Finance and the Attorney General’s Chambers noted that the Public Procurement Act 2018 was passed in Parliament in December 2018, which would be a legal instrument of general application and with the force of law to regulate government systems for the procurement of goods and services, based on the principle of public tendering. However, it was noted that the Act is not yet in force, since it had not been proclaimed in the Official Gazette. In addition, the representatives observed that the Act will most likely not come into force in 2019 since the annual budget did not include expenses related to the enforcement of the Act. They also indicated that it is expected that the Act will come into force sometime in 2020. The representatives also mentioned that they hope to have the Regulations drafted before the Act comes into force and that they are currently working on finalizing these Regulations. As a result, according to the representatives, the legal framework currently in force are the provisions of the Purchases and Tenders Procedure Orders, which the Committee notes was analyzed during the Second Round of Review.

Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure a) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement 2018 has not yet been brought into force. (See Recommendation 1.2.3.1 in Section 1.2.3 of Chapter II of this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop provisions that establish control mechanisms and governing or administrative authorities to monitor compliance with the norms governing government procurement of goods and services and that ensure that they have the necessary human and financial resources and operational independence to objectively discharge their duties free from undue interference or pressures.

With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure:

“The Department of Economic Planning and the Tenders Board have oversight of the award of all government related contracts and general procurement and general procurement matters.”

During the on-site visit, representatives of the Ministry of Finance clarified that currently the Department of Economic Planning and the Tenders Board do not monitor the compliance with the norms governing government procurement of goods and services. However, the representatives noted that the Public Procurement Act 2018, although yet not in force, provides for the establishment of a Central Procurement Board, which could address this recommendation.


Response to the Questionnaire, pg. 3, supra note 11.
The Committee notes that in the legal framework in place, there are no control mechanisms or authorities to monitor the compliance with the norms governing government procurement of goods and services. The Tenders Board is responsible for overseeing the awards of certain contracts, but it is not responsible for monitoring compliance or execution of the contracts awarded.

Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement Act 2018 has not yet been brought into force. (See Recommendation 1.2.3.2 in Section 1.2.3 of Chapter II of this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Develop and implement, through the corresponding authority, a regime of sanctions for contractors who fail to abide by the principles and duties of public contracting.*

With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure:

“There are 3 methods of imposing sanctions against defaulting contractors. These are: Liquidate damages from any outstanding sums to the contractor; 6-month defect remediation period where if the contractor fails to remedy the defects which appear subsequent to the completion of the project and within the period then sums outstanding are also withheld to the extent of the cost of the remedying of the defects. The contractor can be blacklisted and will not be awarded through governmental contracts [...] The process of implementation of sanctions is often the subject of litigation against the Government.”

During the on-site visit, the representatives of the Ministry of Finance clarified that in the current legal framework there is no official regime for imposing sanctions for contractors who fail to abide by the principles and duties of public contracting. In this regard, it was noted that the Public Procurement Act 2018, which is not yet in force, provides for the suspension and debarment procedures.

Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the current legal framework in place in Saint Vincent and the Grenadines does not include an official regime of sanctions for contractors who fail to abide by the principles and duties of public contracting. (See Recommendation 1.2.3.3 in Section 1.2.3 of Chapter II of this Report)

Measure d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Develop provisions that establish the creation of registries of suppliers or bidders as an eligibility requirement to participate in government contracting processes for certain categories of contracts. These provisions should indicate the minimum content of such registries and allow for the use of information technology to create, access, and update them*

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[66] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure.²⁹

[67] “There is an informal registry of suppliers and bidders and the Ministry of Transport and Works also retains a registry of Contractors.”

[68] During the on-site visit, representatives of the Ministry of Transport and Works confirmed that it maintains an informal registry of contractors and that other Ministries also keep their own informal list of suppliers. In addition, officials from the Ministry of Finance noted that the Public Procurement Act 2018 would provide for a central registry of bidders.

[69] Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure d) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement Act 2018 has not yet been brought into force and that the current legal framework in place in Saint Vincent and the Grenadines does not include provisions that establish the creation of registries of suppliers or bidders. (See Recommendation 1.2.3.4 in Section 1.2.3 of Chapter II of this Report)

Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop provisions for the use of electronic media and information systems for public tenders in the systems for the procurement of goods and services, in order to ensure openness, equity and efficiency as provided in the Convention.

[70] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure.³⁰

[71] “Tenders and Bids are often invited using the government website, the newspapers and the gazettes. The award of tenders and bids are also published on the government website which www.gov.vc”

[72] During the on-site visit, representatives of the Ministry of Finance confirmed that although it is the practice of the government to publish tender opportunities, there are currently no provisions in place for the use of electronic media and information systems for public tenders. Moreover, they affirmed that the recently passed Public Procurement Act 2018 provides for the use of electronic media and e-procurement. The Committee also notes that it could not find online the publication of tender opportunities at www.gov.vc.

[73] Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure e) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement Act 2018 has not yet been brought into force and the current legal framework in place in Saint Vincent and the Grenadines does not provide for the use of electronic media and information systems for public tenders.

[74] To this end, the Committee is of the view that the use of electronic methods and information systems for government procurement assists in adequately informing the public and ensuring openness in

²⁹ Ibid.
³⁰ Ibid.
the system for the procurement of goods and services. The Committee further believes that it would be advantageous for Saint Vincent and the Grenadines to consider adopting provisions that make it mandatory the publication of tender opportunities online, the status and outcome of bids and awards and the progress of major projects, and that this be updated on a timely manner. In addition, the Committee considers that use of an electronic procurement system in order to carry out the contracting needs of the State might also be advantageous. Given the foregoing, the Committee believes that measure e) should be reformulated. The Committee will formulate a recommendation in this regard. (See recommendations 1.2.3.5 and 1.2.3.6 in Section 1.2.3 of Chapter II of this Report)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Develop provisions to regulate public works contracts, including the implementation of control systems for each particular contract which, in view of its magnitude, stipulates the audits or monitoring of the execution of the contract by the contracting entity or its designate; ensures citizen oversight or supervision; imposes the requirement to report periodically on the progress of the contract; and makes it possible to determine whether the anticipated cost-benefit ratio was actually obtained and whether the quality of the work is consistent with the agreement.

[75] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents the following information:31

[76] “The agreement between the contractor and the Government will usually incorporate the results of any cost benefit analysis or environmental impact assessment. It will also incorporate, the scope and quality of work to be done. The Ministry of Transport and Works through the chief surveyor and the quantity surveyor will monitor the implementation of the contracts. The contractor is often required to report periodically on the progress and that the end and evaluation and audit is usually undertaken. A revision of the tender procedure is as aforementioned ongoing. However, Public Works contracts are awarded to the usual means employed by the Central Supplies and Tenders Board.”

[77] During the on-site visit, representatives of the Ministry of Finance explained that the same processes and control mechanisms are applied for all types of contracts and, consequently, each procurement entity is responsible for supervising public works contracts and monitoring the execution of each contract. In addition, the officials noted that the Audit Department performs periodic audits and prepares an annual audit report that is available to the public.

[78] In this context, the Committee observes the absence of provisions to regulate public works contracts, including the implementation of control systems for each particular contract which, in view of its magnitude, stipulates the audits or monitoring of the execution of the contract by the contracting entity or it’s designate. The Committee also observes the absence of provisions that ensure citizen oversight mechanisms or provisions that impose the requirement to report periodically on the progress of the contract.

[79] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to implementation of measure f) of the foregoing recommendation. The Committee further observes that it should be reformulated by breaking it down into three separate recommendations, given that it contains related, but separate elements. (See Recommendations 1.2.3.7, 1.2.3.8 and 1.2.3.9 in Section 1.2.3 of Chapter II of this Report).

31 Ibid, pg. 5.
Additionally, the Committee notes that it did not have access to the audit reports mentioned by the country under review during the on-site visit. They were also not found on the webpage of the Audit Office, which contains very general information about the Office, such as explanation about its establishment, mandates, mission, vision, goals, objectives, responsibilities and its contact information. In this regard, the Committee suggests that the country under review consider taking the necessary steps to publish the annual audit reports online on the government website (http://www.gov.vc), so that these documents are readily accessible to the public. (See Recommendation 1.2.3.10 in Section 1.2.3 of Chapter II of this Report).

Finally, the Committee also observes that there are no provisions in place which require prior planning sufficiently in advance of the launch of large-scale or specialized procurement processes, such as the preparation of studies, designs and technical evaluations. The Committee considers that the adoption of provisions that require prior planning would help to ensure the openness, equity and efficiency of the procurement system. The Committee will make a recommendation in that regard. (See Recommendation 1.2.3.11 in Section 1.2.3 of Chapter II of this Report).

Measure g) suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Develop provisions that establish clear and objective criteria for the selection of contractors.*

With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure.33

“The ministry of Transport and Works is progressively updating its contractors’ list where post submission of bids and tenders. The contractors are evaluated based on their ability, financial ability, and experience with the work required to be done.”

During the on-site visit, representatives of the Ministry of Finance noted that the Public Procurement Act 2018 includes provisions that establish clear and objective criteria for the selection of contractor, but as previously mentioned in this Report, the Act is not yet in force. The representatives explained that the criteria that specify how the bids are evaluated are included in the bidding documents and that they depend on the particular type of procurement. They also mentioned that the evaluation criteria and bidding documents are not prepared by the Tenders Board, but by the procurement entity itself.

Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure g) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement Act 2018 has not yet been brought into force and that the current legal framework in place in Saint Vincent and the Grenadines does not have provisions in place that establish clear and objective criteria for the selection of contractors. (See Recommendation 1.2.3.12 in Section 1.2.3 of Chapter II of this Report)

Measure h) suggested by the Committee that requires additional attention within the Framework of the Third Round:

33 Response to the Questionnaire, pg. 5, supra note 11.
Develop provisions that regulate, in keeping with the principle of due process, challenge mechanisms relating to the substantive acts of the tendering process, such as the basis for the tender or bid, the rejection of bidders, and the designation of the winner, which are designed to clarify, modify, or revoke such acts.

[86] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presents the following information:\[87\]

“The tenders or bids are often solicited in format required by the Financers. Rejection of the bidders would often occur if the tenders do not provide assurances relating to the scope and quality of work tender limits, rectification of tenders, employee’s rights and the ability to provide a performance for work to be done. Disgruntled bidders may also apply for judicial review of the decision of the ministry of Transport and Works or the Central Supplies Tender’s Board”

[87] “The tenders or bids are often solicited in format required by the Financers. Rejection of the bidders would often occur if the tenders do not provide assurances relating to the scope and quality of work tender limits, rectification of tenders, employee’s rights and the ability to provide a performance for work to be done. Disgruntled bidders may also apply for judicial review of the decision of the ministry of Transport and Works or the Central Supplies Tender’s Board”

[88] During the on-site visit, the representatives of the Ministry of Finance mentioned that any queries, complaints or decisions related to the tender processes are currently subjected to judicial review. Moreover, the officials noted that the recently passed Public Procurement Act 2018 includes the right of a bidder to challenge the procurement proceedings at any time before the entry into force of the procurement contract, by filing the notice of challenge with the procuring entity.

[89] Given the foregoing, the Committee takes note of the steps taken by the country under review to advance in its implementation of measure h) of the foregoing recommendation, as well as the need for it to continue to give attention thereto, bearing in mind that the Public Procurement Act 2018 has not yet been brought into force and that there are no provisions in the current legal framework that include administrative challenge mechanisms for a tendering processes. (See Recommendation 1.2.3.13 in Section 1.2.3 of Chapter II of this Report)

1.2.2 New Developments with Respect to the provisions of the Convention on Government Systems for the Procurement of Goods and Services

1.2.2.1 New Developments with Respect to the Legal Framework

a) Scope

[90] In its Response to the Questionnaire, the country under review noted the existence of a draft procurement bill as a new development with respect to the legal framework.\[90\] In this respect, during the on-site visit, and as explained in the previous Section, the representatives of the Ministry of Finance and the Attorney General’s Chambers noted that the Public Procurement Act 2018 was passed in Parliament in December 2018, having been assented by the Governor-General on December 31, 2018. However, it was also noted that the Act is not yet in force, since it had not been proclaimed in the Official Gazette. In addition, the representatives observed that the Act will most likely not come into force in 2019 since the annual budget did not include expenses related to the enforcement of the Act. They also indicated that it is expected that the Act will come into force sometime in 2020. The representatives also mentioned that they hope to have the Regulations drafted before the Act comes into force and that they are currently working on finalizing these Regulations.

b) Observations

\[34\] Ibid., pg. 6.
\[35\] Ibid., pg. 10.
[91] The Committee acknowledges the passing of the Public Procurement Act 2018 as a measure adopted by Saint Vincent and the Grenadines to continue to move forward with the adoption of standards that guarantee the principles of openness, equity and efficiency in government systems for the procurement of goods and services, as provided in the Convention.

[92] The Committee notes that, although the Public Procurement Act 2018 has passed in Parliament, it has not yet brought into force, since it has not been officially published in the Gazette, as provided in its Section 1. Therefore, the current legal framework in place is still the same provisions analyzed during the Second Round of Review and, consequently, in this Report.

[93] In this context, the Committee deems it pertinent to make a few comments regarding the advisability of the country under review to consider strengthening, developing, and/or adapting certain aspects that have to do with those new developments, notwithstanding the observations made by the Committee in Section 1.2.1 above in connection with the follow-up on implementation of the recommendations made to the country under review in the Report of the Second Round.

[94] To begin with, the Committee notes that, according to information gathered during the on-site visit in the form of statements from officials at the Ministry of Finance and the Attorney General's Chambers, there was a clear need for training related to the awareness and knowledge of the new provisions included in the Public Procurement Act 2018. In that regard, the Committee recommends that Saint Vincent and the Grenadines, taking into account the recent passing of the Public Procurement Act 2018 in the Parliament, consider adopting the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular basis to public servants, especially those responsible for tenders and contracts for works, goods, and services, as well as to relevant stakeholders outside of government, on the provisions and application of the Act. (See Recommendation 1.2.3.14 in Section 1.2.3 of Chapter II of this Report)

[95] In addition, the Committee suggests adopting the necessary measures, within available resources, for strengthening the authorities responsible for monitoring the systems for procurement of goods and services and ensure that it is provided with the necessary human and financial resources to perform its functions properly, in accordance with the new functions provided for the Public Procurement Act 2018. (See Recommendation 1.2.3.15 in Section 1.2.3 of Chapter II of this Report)

1.2.2.2 New Developments with Respect to Technology

[96] In its Response to the Questionnaire, the country under review mentioned the Reform of the Information Technology Services Division (ITSD), within the Ministry of Finance.

1.2.2.3 Results

[97] The country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about results in relation to government systems for the procurement of goods and services.

36 The country under review, in its observations to the draft preliminary report, notes the following: “Saint Vincent and the Grenadines acknowledges the commendation of the MESICIC regarding the passing of the Public Procurement Act 2018. We anticipate having this Act operational at the earliest convenience. The Act proposes to streamline the process of Public Procurement and take care of most if not all of the issues currently faced which give rise to the recommendations. The Attorney General’s Chambers often undertakes training of government officers prior to the implementation of new Acts of Parliament and it is expected that such training will be undertaken regarding the Public Procurement Act.”
The Committee notes, however, that in the website of the Ministry of Finance, the Central Supplies Tenders Board publishes the outcome of government tender opportunities. These are provided on a quarterly basis, broken down by contractor, the procurement type (services, supplies, works), the date approved, the procurement method, and the contract.

The Committee, believes nonetheless, that it would be useful for the country under review to consider preparing detailed, disaggregated statistics compiled on an annual basis on sanctions or suspensions imposed on contractors for infringing contracting rules, specifying the reason for the sanction, the identity of the contractor, in order to increase transparency in the government system for procurement of goods and services as well as for identifying challenges and recommend corrective measures, where appropriate. The Committee will make a recommendation to the country under review in that regard. (See Recommendation 1.2.3.16 in Section 1.2.3 of Chapter II of this Report)

### 1.2.3 Recommendations

In light of the observations formulated in sections 1.2.1 and 1.2.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

1.2.3.1 Consider adopting, taking into account the existing legal initiative, a legal instrument of general application and with the force of law to regulate government systems for the procurement of goods and services, based on the principle of public tendering, without detriment to the possibility of establishing different modalities of tendering in exceptional cases that are clearly set forth in the law. (See paragraph 56 in Section 1.2.1 of Chapter II of this Report)

1.2.3.2 Consider developing provisions that establish control mechanisms and governing or administrative authorities to monitor compliance with the norms governing government procurement of goods and services and that ensure that they have the necessary human and financial resources and operational independence to objectively discharge their duties free from undue interference or pressures, within available resources. (See paragraph 61 in Section 1.2.1 of Chapter II of this Report)

1.2.3.3 Consider developing and implementing, through the corresponding authority, a regime of sanctions for contractors who fail to abide by the principles and duties of public contracting. (See paragraph 65 in Section 1.2.1 of Chapter II of this Report)

1.2.3.4 Consider developing provisions that establish the creation of registries of suppliers or bidders as an eligibility requirement to participate in government contracting processes for certain categories of contracts. These provisions should indicate the minimum content of such registries and allow for the use of information technology to create, access, and update them. (See paragraph 69 in Section 1.2.1 of Chapter II of this Report)

1.2.3.5 Consider adopting provisions that make it mandatory to publish tender opportunities online on the government website, as well as the status and outcome of bids and awards, and ensure that the government website is updated on a timely basis with respect to those opportunities. (See paragraph 74 in Section 1.2.1 of Chapter II of this Report)

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1.2.3.6 Introduce an electronic procurement system, so that goods and services may be acquired through those means. (See paragraph 74 of Section 1.2.2 of Chapter III of this Report)

1.2.3.7 Consider adopting provisions to regulate public works contracts, including the implementation of control systems for each particular contract which, in view of its magnitude, stipulates the audits or monitoring of the execution of the contract by the contracting entity or its designate. (See paragraph 79 in Section 1.2.1 of Chapter II of this Report)

1.2.3.8 Consider adopting provisions that facilitate and encourage the participation of citizen oversight mechanisms in monitoring the execution of contracts where their nature, importance, or magnitude so warrants. (See paragraph 79 in Section 1.2.1 of Chapter II of this Report)

1.2.3.9 Consider adopting provisions that impose the requirement to report periodically on the progress of the contract, in order to make it possible to determine whether the anticipated cost-benefit ratio was actually obtained and whether the quality of the work is consistent with the agreement. (See paragraph 79 in Section 1.2.1 of Chapter II of this Report)

1.2.3.10 Take the necessary steps to publish online the annual audit reports of the Audit Department, so that those documents are easily accessible to the public. (See paragraph 80 in Section 1.2.1 of Chapter II of this Report)

1.2.3.11 Consider adopting provisions that require prior planning sufficiently in advance of the launch of large-scale or specialized procurement process, such as the preparation of studies, designs and technical evaluations. (See paragraph 81 of Section 1.2.1 of Chapter III of this Report)

1.2.3.12 Consider developing provisions that establish clear and objective criteria for the selection of contractors. (See paragraph 85 in Section 1.2.1 of Chapter II of this Report)

1.2.3.13 Consider developing provisions that regulate, in keeping with the principle of due process, challenge mechanisms relating to the substantive acts of the tendering process, such as the basis for the tender or bid, the rejection of bidders, and the designation of the winner, which are designed to clarify, modify, or revoke such acts. (See paragraph 89 in Section 1.2.1 of Chapter II of this Report)

1.2.3.14 Adopt the necessary measures so that, subject to the availability of resources, training, whether on-site and/or distance, is provided free of charge and on a regular basis to public servants and officials in charge of tenders and contracts for works, goods, and services, as well as relevant stakeholders, on the Public Procurement Act 2018. (See paragraph 94 of Section 1.2.1 of Chapter III of this Report)

1.2.3.15 Adopt the necessary measures, within the available resources, for strengthening the authorities responsible for monitoring the systems for procurement of goods and services and ensure that they are provided with the necessary human and financial resources to perform its functions properly, in accordance with the new functions provided for the Public Procurement Act 2018. (See paragraph 95 of Section 1.2.1 of Chapter III of this Report)
1.2.3.16 Prepare detailed, disaggregated statistics compiled on an annual basis on sanctions or suspensions imposed on contractors for infringing contracting rules, specifying the reason for the sanction and the identity of the contractor, in order to identify challenges and recommend corrective measures, where appropriate. (See paragraph 99 of Section 1.2.2 of Chapter III of this Report)

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

2.1 Follow-Up to the Implementation of the Recommendations Formulated in the Second Round

Recommendation 2.1

Adopt, through the corresponding authority, a comprehensive legal and regulatory framework that provides protection of public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings.

[101] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review, presented the following information: 38

[102] “Witnesses can be protected through the use of the Witness (Special Measures) Act 2013. The link is http://www.easterncaribbeanlaw.com/wp-content/uploads/2014/07/Witness-Special-Measures-Act-37.of-2013.pdf. This bill was recently invoked to protect the identity of several informants and criminal matters.”

[103] During the on-site visit, the representatives of the Office of the Director of Public Prosecutions and the Royal Police Force clarified that the Witness (Special Measures) Act 2013 makes provision for the protection of witnesses in criminal proceedings and it is not a legal framework that provides protection of public servants and private citizens. 39

[104] In that regard, the Committee notes that a comprehensive legal and regulatory framework has not yet been adopted that provides protection for people who, in good faith, report acts of corruption, including, inter alia, protection for those who report acts of corruption subject to investigation in administrative or judicial proceedings, as set out in measure a) of the recommendation.

[105] Therefore, the Committee reiterates the need for the country under review to give additional attention to measure a) of the foregoing recommendation, taking into account the criteria outlined in the Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect

38 Ibid., pg. 6.
Whistleblowers and Witnesses available at the Anticorruption Portal of the Americas. The Committee also considers it relevant to reformulate this recommendation and break it into two different recommendations, since there are related but independent aspects that need to be considered by the country under review. (See Recommendations 2.3.1 and 2.3.2 in Chapter II, Section 2.3 of this Report)

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers.

[106] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review provided the following information:

[107] "There is an existing system of Witness protection in St. Vincent and the Grenadines over and above the provisions of the Witness Protection (Special Measures) Act 2013. It is not restricted and is triggered by a request from the Director of Public Prosecutions to the Commissioner of Police ad it is funded by the Government."

[108] During the on-site visit, government representatives clarified that the Witness Protection (Special Measures) Act 2013 does not include measures to protect the physical integrity of whistleblowers and their families, or protection in the workplace, especially when the person is a public official.

[109] Given the foregoing, the Committee observes that the current legal system in place in Saint Vincent and the Grenadines contain no provisions regarding protection of public servants who report acts of corruption, in terms of their physical integrity or in relation to the workplace.

[110] Therefore, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure b) of the foregoing recommendation. (See recommendation 2.3.3 in Section 2.3 of Chapter II of this Report)

Measure c) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption.

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40 Available at http://www.oas.org/juridico/PDFs/model_law_reporting.pdf
41 The country under review, in its observations to the draft preliminary report, notes the following: “The Witness Protection (Special Measures) Act 2013 operates to remove the witness or whistle-blower in the circumstances, from their usual places of habitation to a place unknown to friends, acquaintances, or a perpetrator and other persons. The physical well-being of a whistle blower is therefore taken care of. The Act, and existing government machinery, also makes provision for the protection of dependents and other family members. Notwithstanding, Saint Vincent and the Grenadines notes the recommendation of the Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses. It is reiterated that the identity of a witness may remain anonymous via the Witness Anonymity Order under the Act. Breaches of any orders for the protection of a witness are enforced by the Royal St. Vincent and the Grenadines Police Force and the National Prosecution Service.”
42 Response to the Questionnaire, pg. 6, supra note 11.
With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review reiterated the information provided for measure a) of the recommendation:43


During the on-site visit, the representatives of the Royal Police Force mentioned that there are informal mechanisms that allowed for anonymous reporting and confidential statements since the Police is responsible for the confidentiality of the information.

The Committee considers that while in practice there may be informal police mechanisms that allow anonymous reporting, there are no formal reporting mechanisms in place to guarantee the personal security and identity confidentiality of public officials and private citizens who, in good faith, report acts of corruption. Therefore, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure c) of the foregoing recommendation. (See recommendation 2.3.4 in Section 2.3 of Chapter II of this Report)

In this respect, during the on-site visit, the representative of the Bar Association of Saint Vincent and the Grenadines said that there were no provisions in the current regulatory framework on the confidentiality of reporting or on protection of the identity of those who report acts of corruption.

Measure d) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.

With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review provided the following information:44

“Any person who is threatened may make a report to the Royal St. Vincent Police Force and sanctions are imposed on persons who breach the conditions of a witness anonymity order. The difficulties are ascertaining who exactly would have made threats or breached the conditions of the order.”

The Committee finds that the country under review has not established mechanisms for reporting the threats or reprisals that whistleblowers may face, indicating the authorities responsible for processing protection requests and the bodies responsible for providing such protection. Therefore, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure d) of the foregoing recommendation. (See recommendation 2.3.5 in Section 2.3 of Chapter II of this Report)

In this respect, during the on-site visit, the representative of the Bar Association emphasized the lack of mechanisms to report any threats or reprisals against whistleblowers.

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43 Ibid.
44 Ibid., pg. 7.
Measure e) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens

[120] In its Response to the Questionnaire, the country under review presents information and new developments, which the Committee notes as a step that contributes to progress in the implementation of the measure:45

[121] “There is an existing system of Witness protection in St. Vincent and the Grenadines over and above the provisions of the Witness Protection (Special Measures) Act 2013. It is not restricted and is triggered by a request from the Director of Public Prosecutions to the Commissioner of Police and it is funded by the Government.”

[122] In addition, during the on-site visit, the representatives of Royal Police Force explained that the Witness Protection (Special Measures) Act 2013 provides for a witness anonymity order which is “an order made by a court under s.5 that requires special measures to be taken in relation to a witness in criminal proceedings as the court considers appropriate to ensure that the identity of the witness is not disclosed in or in connection with the proceedings.”46

[123] To this end, the representatives of the Office of the Director of Public Prosecutions during the on-site visit, also added that the Act aims at protecting “any witness in criminal proceedings (both prosecution and defense witnesses), so long as they fall within the criteria of eligible witnesses under the Act. […]”.47

[124] The representatives also added that “The name, address, and any other identifying details of the particular witness is withheld or removed from any material disclosed to the Defendant. The use of a pseudonym is usually used and the witness would usually give his evidence from a secure location via live link (his voice would be modulated) and image distorted virtually/through use of a physical screen.”48

[125] In addition, it was noted that the Act allows for pre-recorded video evidence, whereby a witness would record his or her evidence and it would be admitted as evidence in chief. In such a case, the court may also direct that a recording be done of cross examination and re-examination.49

[126] Regarding the application for a witness anonymity order in relation to a witness in criminal proceeding, under the Act, section 6 provides that this may be carried out by the court by the prosecutor or the defendant.

45 Ibid.
46 See Presentation from the Royal Force Police, available at: http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex17.pdf. Section 5 of the Witness Protection (Special Measures) Act 2013 provides that the following kinds of measures that may be required to be taken in relation to a witness by a witness anonymity order: “(a) name, address, contact information and other identifying details of the witness may be — (i) withheld by and (ii) removed from materials disclosed to any party to the proceedings; (b) witness may use a pseudonym; (c) witness is not asked questions of any specified description that might lead to the identification of the witness; (d) witness is screened to any specified extent; (e) voice of the witness is subjected to modulation to any specified extent.”
48 Ibid.
49 Ibid.
Furthermore, section 7(1) establishes that the court may make such an order, only if it is satisfied that i) the order is necessary to protect the safety of the witness, an involved person or another person or to prevent any serious damage to property; or (ii) in order to prevent real harm to the public interest, whether affecting the carrying on of any activities in the public interest or the safety of an involved person in carrying on such activities, or otherwise; (b) having regard to all the circumstances, the taking of those measures would be consistent with the defendant receiving a fair trial”; and (c) it is necessary to make the order in the interest of justice by reason of the fact that it appears to the court that – (i) it is important that the witness should testify; and (ii) the witness would not testify if the order was not made.

Section 12(1) further provides that a witness in criminal proceedings, other than the defendant, is eligible for assistance “if the court is satisfied that the quality of evidence given by the witness is likely to be diminished” on grounds of fear or distress about testifying in proceedings. In determining that, “the court must take into account: (a) the nature and alleged circumstances of the offence to which the proceedings relate; (b) the age of the witness; such of the following matters as appear to the court to be relevant – (i) the social and cultural background and ethnic origin of the witness; (ii) the domestic and employment circumstances of the witness; (iii) and any religious beliefs or political opinions of the witness; (d) any behaviors towards the witness or persons connected to the witness on the part of – (i) the defendant; (ii) members of the family or associates of the defendant; or (iii) any other person who is likely to be a defendant or a witness in the proceedings; (e) any views expressed by the witness.”

Part III of the Act includes special measures that may be granted to eligible witnesses, which include: evidence by means of a live link (Section 16); evidence in private (Section 17), video recording of an interview of the witness (Section 18); video recorded cross-examination or re-examination (Section 19); examination of the witness to be conducted through an intermediary approved by the court (Section 20); any aids to communication related to any impairment which the witness may have (Section 21); evidence from outside of Saint Vincent and the Grenadines (Section 24).

In this context, during the on-site visit, the representatives of the Office of the Director of Public Prosecutions explained that “a vulnerable, or otherwise, witness is put under the protection of the State for the period up to the time of trial (until he gives evidence), and or protection after trial (may include new identity of witness).”

The Committee takes note, however, of the difficulties mentioned by the country under review in providing witness protection, in its Response to the Questionnaire and in the presentation made during the on-site visit, in relation to the above measure.

For example, during the on-site visit, the representatives of the Office of the Director of Public Prosecutions noted that at the time, there does not exist a structured program for witness protection, especially ones for prolonged protection. Protection is provided on an ad hoc basis and provided up to the time of the trial. Furthermore, there is no dedicated Witness Protection Unit to deal with witness protection leading up to trial and thereafter. As a consequence, since there is a lack of a full structure, potential witnesses are reluctant to give evidence since the system in place amounts to insufficient assurances for protection. The representatives also noted that there is great difficulty protecting and or relocating families and/or close associates of witnesses. Moreover, in its Response to the Questionnaire, the country under review emphasized this last point, stating that one of the difficulties it encounters is that that some of the witnesses do not trust the authorities in the invoking of the bill and the protection of their

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50 Ibid.
51 Ibid.
identities. The representatives also further noted that there is a lack of allocated funds for witness protection, as well as lack of safe houses.

[133] Given the foregoing, the Committee believes that the recommendation should be reformulated. To that end, the Committee observes that the country under review should consider adopting a comprehensive legal and regulatory framework that provides protection of witnesses who, in good faith, report acts of corruption, including protection of their identities, before, during and after criminal proceedings, in accordance with the Constitution and the fundamental principles of the domestic legal system of Saint Vincent and the Grenadines. Consideration should also be made for the establishment of a formalized witness protection program, and the creation of a Witness Protection Unit that has the necessary financial, material, and human resources, in order to carry out its functions adequately, within available resources. (See recommendation 2.3.6 and 2.3.7 in Section 2.3 of Chapter II of this Report)

Measure f) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Mechanisms to facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.

[134] With respect to the aforementioned measure, in its Response to the Questionnaire, the country under review presented the following information:

[135] “There are several mutual legal assistance treaties concluded between St. Vincent and the Grenadines and other countries. St. Vincent and the Grenadines is also a party to the Harare Scheme. There is also the Mutual Assistance in Criminal Matters Act which provides for assistance across borders throughout the Caribbean and internationally”

[136] During the on-site visit, the Committee notes, however, that the representatives of the Office of the Director of Public Prosecutions stated that there is “little to no established formal networks with neighboring islands or countries.”

[137] In addition, the Committee notes that the Mutual Assistance in Criminal Matters Act was adopted in 1993 and although there are provisions for general criminal mutual assistance in general, there are no specific provisions to facilitate international cooperation and assistance on the protection of whistleblowers and witnesses that report acts of corruption.

[138] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure f) of the foregoing recommendation. (See Recommendation 2.3.8 in Section 2.3 of Chapter II of this report)

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52 Response to the Questionnaire, pg. 6, supra note 11.
53 Presentation Witness (Special Measures) Act 2013, supra note 47.
54 The country under review, in its observations to the draft preliminary report, notes the problems that exist in the lack of a structured witness protection program and the lack of funding toward the provision of such a service. Consideration will be given toward a Witness Protection Unit within the National Prosecution Service.
55 Response to the Questionnaire, pg. 8, supra note 11.
56 See Presentation Witness (Special Measures) Act 2013, supra note 47.
Measure g) suggested by the Committee that requires additional attention within the Framework of the Third Round:

A simple whistleblower protection application process

[139] In its Response to the Questionnaire, the country under review did not refer specifically to measure g) and reiterated the information provided in previous measures.58

[140] In this context, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure g) of the foregoing recommendation and considers it appropriate to reformulate the recommendation for greater clarity and to recommend that Saint Vincent and the Grenadines considers to use as a guide the Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, available at the Anticorruption Portal of the Americas.59 (See Recommendation 2.3.9 in Section 2.3 of Chapter II of this Report)

[141] In relation to this measure, the Committee notes that Article 23 of the Model Law, defines an application for protective measures by a whistleblower and/or a witness as follows:

[142] “An application for additional protective measures is an action whereby a whistleblower and/or witness of acts of corruption requests the granting of such measures, because he or she deems the physical and/or psychological integrity of his/her person, or that of his or her family group, or the safety of his or her property to be actually or potentially threatened, and/or where there is an undue alteration in his/her working conditions that suggest an intent to retaliate against and harm the whistleblower and/or witness.”

[143] In addition, Article 10 of the Model Law contains a series of administrative measures to facilitate the reporting of acts of corruption:

[144] “In order to ensure timely and confidential attention to reports of acts of corruption, the competent authority responsible for receiving them shall implement at least the following organizational and operational changes: 1. Appointment of specialized officers for receiving and dealing with the reports. 2. Document processing and secure storage procedures different from standard procedures. 3. Provision of a request form in accordance with the model attached to this law. 4. Assignment of a specific secure telephone hotline for receiving the reports. 5. Creation of a specific secure e-mail account for dealing with the reports. 6. Arrangements for reports through intermediaries, without revealing the whistleblower's identity.”

[145] In that regard, the Model Law includes a “Form for Reporting Acts of Corruption and Requesting Protective Measures for Whistleblowers and Witnesses of Acts of Corruption.”

Measure h) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Provisions which provide for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to protection.

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58 Response to the Questionnaire, pg. 8, supra note 11.
59 Model law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, supra note 40.
In its Response to the Questionnaire, the country under review provided the following information:

“A person who fails to observe the rules or duties relating to protection commits an offence and is liable to imprisonment for a maximum of 2 years.”

The Committee observes that the country under review, in its Response to the Questionnaire, referred to Section 11(5) of the Witness Protection (Special Measures) Act 2013 which establishes that if any person who willfully discloses or does something that it is likely to disclose the identity of the witness, the contact information or other identifying details of the witness commits an offence and is liable on summary conviction to imprisonment for two years.

In addition, during the on-site visit, representatives of the Royal Police Force mentioned that there are sanctions related to the breach of confidence in Section 17 of the Police Act: “(1) Any member of the Force of or below the rank of sergeant who is guilty of any of the following offences — (w) breach of confidence; may, on conviction by the Commissioner or any member of the Force delegated by him, be punished by any one of the following punishments: (i) fine not exceeding two hundred and fifty dollars, (ii) dismissal, (iii) reduction in rank, (iv) forfeiture of good conduct pay and badges, or of any benefit arising from the whole or any part of his past or future service, (v) cells, not exceeding fourteen days, (vi) confinement to barracks not exceeding twenty-eight days, and such confinement shall involve the performance of ordinary duty and parades as well as fatigue duties.”

In this context, the Committee notes that the Police Act was enacted in 1947 and although there are provisions for offenses and punishments in regard to the breach of confidence, there are no specific provisions for administrative and criminal sanctions for the failure to observe the rules and/or duties relating to the protection of witnesses and whistleblowers.

Additionally, during the on-site visit, representatives of the Office of the Director of Public Prosecutions referred to Chapter VI of the Criminal Code, and its Section 97 which provides for the “Conspiracy to defeat the course of justice and interference with witnesses: Any person who— (a) conspires with any other person to accuse any person falsely of any offence or to do anything to obstruct, prevent, pervert or defeat the course of justice; (b) in order to obstruct the due course of justice dissuades, hinders or prevents any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence or endeavours to do so; or (c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal, is guilt of an offence and liable to imprisonment for five years.”

The Committee observes that the Criminal Code was adopted in 1947 and although there are provisions for “Offences Relating to the Administration of Justice”, included the aforementioned Section 97, there are no specific provisions for criminal sanctions for the failure to observe the rules and/or duties relating to the protection of witnesses or whistleblowers.

In view of the foregoing, the Committee reiterates the need for the country under review to give additional attention to implementing measure h) of the of the foregoing recommendation and considers it relevant to separate into two different recommendations to distinguish administrative from criminal sanctions. (See Recommendations 2.3.10 and 2.3.11 in Section 2.3 of Chapter II of this Report)

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60 Response to the Questionnaire, pg. 8, supra note 11.
Finally, the Committee notes that, as set out above, the sanction for willfully disclosing or does something that it is likely to disclose the identity of a witness, the contact information or other identifying details of the witness commits, is summary conviction to imprisonment for two years. The Committee considers that this sanction may not be adequately dissuasive and believes that the country under review should consider reviewing this sanction.63 (See Recommendation 2.3.12 in Section 2.3 of Chapter II of this Report)

Measure i) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area.

[155] In its Response to the Questionnaire, the country provided the following information:64

[156] “The judicial administration authorities are very competent having undergone training with respect to witness protection and special measures.”

[157] During the on-site visit, representatives of the Royal Police Force and the Office of the Director of Public Prosecutions informed that these institutions are relevant authorities in this area as well as the Judiciary Branch.

[158] In this regard, the Committee notes that the current legal system does not include provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area and it reiterates the need for the country under review to give additional attention to the implementation of measure i) of the foregoing recommendation. (See Recommendation 2.3.13 in Section 2.3 of Chapter II of this Report)


2.2.1 New Developments with respect to the Legal Framework

[159] In its Response to the Questionnaire, the country under review referred to the Witness Protection (Special Measures Act) 2013, which was analyzed in the previous section.65

2.2.2 New Developments with Respect to Technology

[160] In its Response to the Questionnaire, the country under review referred to the development of the Police Information Technology Unit.66

[161] During the on-site visit, representatives of the Royal Police Force of Saint Vincent and the Grenadines also noted the existence of the Police Information Technology Unit, which is currently under development and comprised of five employees. According to the Police Force’s website, the Unit “assists

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63 The country under review, in its observations to the draft preliminary report, notes the need to further bolster the sanctions regarding breaches of confidence contained in the Police Act and Criminal Code in order to dissuade potential breaches.
64 Response to the Questionnaire, pg. 9, supra note 11.
65 Ibid., pg. 10.
66 Ibid.
in the investigation of cybercrimes, compiles statistics, installs and maintains all electronic equipment within the Police Force.” The representatives also mentioned that the Unit also cooperates in court proceedings and investigations of data in technological equipment such as computers. In this context, they observed there is a shortage of skilled public servants to work in the Unit, therefore there is a need for training of personnel and international cooperation in this area. Lastly, the representatives noted that additional technological equipment is currently necessary.

[162] In this context, the Committee deems it relevant to recommend that the country under review ensures that the Police Information Technology Unit has sufficient human, financial technological and resources to adequately perform its functions, within available resources, and will formulate a recommendation in that regard. (See Recommendation 2.3.14 in Section 2.3 of Chapter II of this Report)

2.2.3 Results

[163] The Committee notes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about objective results in relation to systems for protecting public servants and private citizens who in good faith report acts of corruption because it has no such systems in place.

2.3 Recommendations

[164] Bearing in mind the observations made in sections 2.1 and 2.2 of Chapter II of this Report, the Committee suggests that the country under review take into account the criteria outlined in the Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses, and consider, inter alia, the following:

2.3.1 Consider adopting, through the corresponding authority, a comprehensive legal and regulatory framework that provides protection of public servants and private citizens who, in good faith, report acts of corruption subject to investigation in administrative proceedings, including protection of their identities, in accordance with the Constitution and the fundamental principles of its domestic system of laws. (See paragraph 105 of Section 2.1 of Chapter II of this Report)

2.3.2 Consider adopting, through the corresponding authority, a comprehensive legal and regulatory framework that provides protection of public servants, private citizens and witnesses who, in good faith, report acts of corruption subject to investigation in judicial proceedings, including protection of their identities, in accordance with the Constitution and the fundamental principles of its domestic system of laws. (See paragraph 105 of Section 2.1 of Chapter II of this Report)

2.3.3 Establish measures to protect not only the physical integrity of whistleblowers, witnesses and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his or her superior or co-workers. (See paragraph 110 of Section 2.1 of Chapter II of this Report)

2.3.4 Consider establishing mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the

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confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption. (See paragraph 114 of Section 2.1 of Chapter II of this Report)

2.3.5 Establish mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it. (See paragraph 118 of Section 2.1 of Chapter II of this Report)

2.3.6 Consider adopting, through the corresponding authority, a comprehensive legal and regulatory framework that provides protection of witnesses who, in good faith, report acts of corruption, including protection of their identities before, during and after criminal proceedings, in accordance with the Constitution and the fundamental principles of its domestic system of laws. (See paragraph 133 of Section 2.1 of Chapter II of this Report)

2.3.7 Establish a formalized witness protection program, and the creation of a Witness Protection Unit that has the necessary financial, material, and human resources to carry out its functions adequately, within available resources. (See paragraph 133 of Section 2.1 of Chapter II of this Report)

2.3.8 Establish mechanisms to facilitate international cooperation on the protection of whistleblowers and witnesses, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance. (See paragraph 138 of Section 2.1 of Chapter II of this Report)

2.3.9 Establish a simplified and readily accessible application process for protection measures for whistleblowers and witnesses of acts of corruption. (See paragraph 140 of Section 2.1 of Chapter II of this Report)

2.3.10 Consider adopting provisions which provide for administrative sanctions for the failure to observe the rules and/or duties relating to the protection of whistleblowers and witnesses by any person, including any public authorities. (See paragraph 153 of Section 2.1 of Chapter II of this Report)

2.3.11 Consider adopting provisions which provide for criminal sanctions for the failure to observe the rules and/or duties relating to the protection of whistleblowers and witnesses by any person, including any public authorities. (See paragraph 153 of Section 2.1 of Chapter II of this Report)

2.3.12 Review the criminal offenses in the Witness Protection (Special Measures) Act 2013 to determine whether the sanctions in place are of sufficient deterrence. (See paragraph 154 of Section 2.1 of Chapter II of this Report)

2.3.13 Consider adopting provisions that clearly delineate the respective competence of judicial and administrative authorities with respect to this area. (See paragraph 158 of Section 2.1 of Chapter II of this Report)

2.3.14 Adopt the appropriate measures to ensure that the Police Information Technology Unit has sufficient human, financial and technological resources to properly execute its duties, within available resources. (See paragraph 162 of Section 2.1 of Chapter II of this Report).
3. ACTS OF CORRUPTION (ARTICLE VI (1) OF THE CONVENTION)

3.1. Follow-up on implementation of the recommendations made at the Second Round

Recommendation

Adapt and/or expand, as appropriate, its criminal legislation, in order to include the elements of those acts of corruption set out in Article VI.1 of the Convention.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Third Round:

Criminalize the fraudulent use or concealment of property derived from any of the acts referred to in Article VI(1) of the Convention, in accordance with paragraph (d) of the same Article.

[165] With respect to the aforementioned measure, the country under review presents information and new developments. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[166] During the on-site visit, the Director of Prosecutions noted that Saint Vincent and the Grenadines had enacted the Proceeds of Crime Act 2013.68

[167] Section 123 (1) of this Act states that “a person is guilty of an offense if he: a) conceals criminal property; b) disguises criminal property; c) converts criminal property; d) transfers criminal property; or (e) brings in or removes criminal property from the State.”69

[168] Section 123 (3) further provides that “Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.”

[169] Section 121 (1) clarifies the meaning of criminal property: “Property is criminal property if (a) it constitutes a person’s benefit from criminal conduct or it represents such a benefit, in whole or part and whether directly or indirectly; and (b) the alleged offender knows or suspects that it constitutes or represents such a benefit.”

[170] Section 2 of the Act defines ‘criminal conduct’ as: “conduct which constitutes an offense or would constitute an offence if it had occurred in the State.”

[171] Section 2 further provides that an offense means “(a) an indictable offense; or (b) an offense that may only be tried summarily and for which, if the offense was to be committed by an individual, the maximum penalty would be a term of imprisonment of 1 year or more.”

[172] The Committee notes that the Proceeds of Crime Act 2013 is applicable to the provisions related to the criminalization of the acts of corruption provided for in Article VI(1) of the Convention, which are included in the Criminal Code of Saint Vincent and the Grenadines, as reviewed in the Second Round.70

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69 Section 121 (4) states that “A person guilty of an offense under this section is liable: (a) on summary conviction, to imprisonment for a term of 5 years or to a fine of $500,000 or to both; on conviction on indictment, to imprisonment for a term of 20 years or to a fine without limit or to both.”
Given the foregoing, the Committee takes note of the satisfactory consideration by the country under review of measure a) of the foregoing recommendation.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Third Round:

To include the modalities of participation as a principal, coprincipal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in Article VI (1) of the Convention, in accordance with paragraph (e) of the same Article.

With respect to the aforementioned measure, the country under review presents information and new developments. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

During the on-site visit, reference was made to provisions in the Criminal Code. In this respect, the Committee notes that the Criminal Code, in its Chapter XIX provides the following:

Section 310 refers to conspiracy to commit an offence: “(1) Subject to the following provisions of this Chapter, any person who agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either — (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement; or (b) would do so but for the existence of facts which render the commission of the offences or any of the offences impossible, is guilty of conspiracy to commit the offence or offences in question. (2) Where liability for an offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstances necessary for the commission of the offence, a person nevertheless shall not be guilty of conspiracy to commit that offence by virtue of subsection (1) unless he and at least one other party to the agreement intend, or know, that the fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.”

Section 315 refers to attempting to commit an offence: “(1) Any person who, with intent to commit an offence, does an act which is more than merely preparatory to the commission of the offence, is guilty of attempting to commit the offence. (2) A person may be guilty of attempting to commit an offence even though the facts are such that the commission of the offence is impossible. (3) In any case where—(a) apart from this subsection, a person’s intention would not be regarded as having amounted to an intent to commit an offence; but (b) if the facts of the case had been as he believed them to be, his intention would be so regarded, then, for the purposes of subsection (1), he shall be regarded as having an intent to commit that offence. (4) This section applies to any offence, whether under this Code or any other written law, which, if completed, would be triable in Saint Vincent and the Grenadines other than—(a) conspiracy; (b) aiding, abetting, counselling, procuring or suborning the commission of an offence.”

Section 318 refers to assisting offenders: “(1) Subject to the provisions of subsection (2), where a person has committed an offence punishable with death or imprisonment (other than with imprisonment in default of payment of a fine), any other person who, knowing him to be guilty of that offence or of some other offence similarly punishable, does, without lawful authority or reasonable excuse, an act to impede his apprehension or prosecution is guilty of an offence and is said to be an accessory after the fact.”


[179] Section 318(4) states that “Any person who is guilty of being an accessory after the fact is liable to imprisonment according to the gravity of the offence to which he was accessory […]”

[180] Given the foregoing, the Committee takes note of the satisfactory consideration by the country under review of measure b) of the foregoing recommendation.

3.2. New developments in respect of the Convention provision on acts of corruption

3.2.1. New developments in the legal framework

a) Scope

[181] In its Response to the Questionnaire, the country under review noted that there is “no new legislation, however, there was a consolidation of the Criminal Code of the Revised laws 2009 which provided for official corruption.”

[182] The Committee notes, in addition, the enactment of the Proceeds of Crime Act 2013.

b) Observations

[183] The Committee notes that in the Response to the Questionnaire, the country under review observed the difficulty in the investigation and prosecution of persons charged for acts of corruption. Moreover, during the on-site visit, representatives of the Office of the Director of Public Prosecutions noted that they have not worked on corruption offenses, since the acts of corruption are normally charged in conjunction with other greater offenses.

[184] In this respect, the Committee notes of the pertinent recommendations formulated in the Report of the Fourth Round, to assist the Office of the Director of Public Prosecutions in the prosecution of acts of corruption. Recommendations included the need for prosecutors to receive appropriate training for the correct and effective prosecution of acts of corruption; the effective implementation of a National Prosecution Service to strengthen the Office’s powers of supervision over procedures carried by police prosecutors; the development of instruments, manuals and/or guides for directing prosecutors in effectively and correctly initiating and pursuing criminal proceedings for the commission of corrupt acts; as well as the provision of financial resources to the Office necessary to ensure the regular training of prosecutors, in order to strengthen their knowledge and skills in the correct and effective prosecution of acts of corruption, bearing in mind the availability of resources. A recommendation was also made for the implementation of coordination mechanisms between the Office of the Director of Public Prosecutions, the Royal Saint Vincent and the Grenadines Police Force, the Office of the Attorney General, and the Financial Intelligence Unit, in order to establish effective and timely procedures and/or guidelines for exchanges of information and legal advice for the correct presentation before the courts of criminal proceedings related to acts of corruption.

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72 Response to the Questionnaire, pg. 10, supra note 11.
73 Response to the Questionnaire, pg. 10, supra note 11.
75 The country under review, in its observations to the draft preliminary report, notes the following: “Saint Vincent and the Grenadines acknowledges the MESICIC’s satisfactory review of our country’s strides in the respective measures. It is of note that the National Prosecution Service was launched on July 24th 2019. Subsequently on the 25th and 26th of July 2019, the yearly Alright Conference hosted by the National Prosecution Service was held to train Prosecutors and law enforcement officers on a range of topics and issues.”
The Committee observes that the country under review should take into account these recommendations, among others, to support the important work the Office of the Director of Public Prosecutions carries out in the prosecution of acts of corruption.

Finally, the Committee also notes that mention was made during the on-site visit that corruption offenses have very low penalties, when compared to other criminal offenses. The Committee believes that the country under review should consider reviewing the sanctions in place for acts of corruption as contemplated in Saint Vincent and the Grenadines.

In this respect, the Committee notes that an offense covered by the Proceeds of Crime Act 2013 are an indictable offense, or one that can be tried summarily, and the maximum penalty would be a term of imprisonment of one year or more. Under these terms, section 87 of the Criminal Code, which was reviewed in the Second Round, would not be covered, as the maximum sanction is imprisonment for six months. This provision refers to persons employed in the public service that receives any property or benefit with the understanding that he or she will confer a benefit in any transaction then pending, or likely to take place between the person given the property and any person employed in the public service. The Committee will formulate a recommendation. (See Recommendation 3.3.1 in Section 3.3 of Chapter III of this Report)

**3.2.2. New developments with respect to technology**

The country under review made no mention of new developments with respect to technology in this area.

The Committee would like to highlight, however, that certain technological needs related to the Office of the Director of Public Prosecutions were considered by the Committee in the Report of Saint Vincent and the Grenadines from the Fourth Round of Review. These recommendations include that the country under review consider the development and implementation of technological tools necessary for the Office to discharge its constitutional and legal obligations with greater efficiency and effectiveness, particularly as regards the prosecution of corrupt acts that trigger criminal responsibility, as well as to consider taking the steps necessary to establish and keep updated the web site of the National Prosecution Service, which could contain, inter alia, information about the Office’s objectives and functions, its legal framework, and the procedures for discharging its duties.76

The Committee observes that the country under review should take into account these recommendations, among others, with respect to the technological needs of the Office of the Director of Public Prosecutions.

**3.2.3. Results**

The Committee notes that the country under review did not provide, either in its Response to the Questionnaire, or during the on-site visit, any information about results in relation to acts of corruption recognized at Article VI (1) of the Convention. Accordingly, it will make recommendations to the country under review in that regard. (See Recommendations 3.3.2 and 3.3.3 in Section 3.3 of Chapter III of this Report)

**3.3. Recommendations**

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76 Report of the Fourth Round of Review, pgs. 18 – 24, supra note 19.
In light of the comments made in Sections 3.1 and 3.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

3.3.1 Review the sanctions in place for carrying out acts of corruption to determine if they are of sufficient deterrence. (See paragraph 187 in Section 3.1 of Chapter II of this Report)

3.3.2 Prepare and publish statistical data on the prosecutions carried out by the Office of the Director of Public Prosecution into acts of corruption, to indicate how many remain ongoing, how many have been discontinued for whatever reason, how many are pending without a decision being reached on the merits in the case under investigation, how many are at a stage that allows a decision to be reached on the merits of the case under investigation, and how many have been referred to the competent authority for such a decision to be adopted, in order to identify challenges and recommend any necessary corrective measures, where appropriate. (See paragraph 191 in Section 3.1 of Chapter II of this Report)

3.3.3 Prepare and publish statistical data regarding the investigations referred to the Office of the Director of Public Prosecutions and conducted by competent authorities involving acts of corruption, including data that clearly establish how many cases are on-going; how many have been suspended for whatever reason; how many have been closed because the statutory time limit has expired; how many have been archived without a decision adopted on the merits of the case under investigation; how many are in a position where a decision on the merits of the case under investigation could be adopted; and how many have been referred to the competent authority to adopt such a decision, with a view to identifying challenges and recommending corrective actions, where applicable. (See paragraph 191 in Section 3.1 of Chapter II of this Report)

4. GENERAL RECOMMENDATIONS

Recommendation 4.1 suggested by the Committee that requires additional attention within the Framework of the Third Round:

Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, standards, measures and mechanisms considered in this Report, for the purpose of guaranteeing that they are adequately understood, managed and implemented

[193] In its Response to the Questionnaire, the country under review notes that the relevant stake holder departments and ministries conduct regular training exercises for public servants to develop these public servants in the delivery of the required services.

[194] Given that in sections 1, 2 and 3 of Chapter II of this Report provides an updated and detailed follow-up of the recommendations formulated to Saint Vincent and the Grenadines in the Second Round of Review, as well as the systems, standards, measures and mechanisms that the suggested recommendations concern, the Committee believes that this recommendation is redundant.

Recommendation 4.2 suggested by the Committee that requires additional attention within the Framework of the Third Round:

77 Response to the Questionnaire, pg. 9, supra note 11.
Select and develop procedures and indicators, when appropriate and where they do not yet exist, to analyze the results of the systems, standards, measures, and mechanisms considered in this Report, and to verify follow-up on the recommendations made herein.

[195] In its Response to the Questionnaire, the Public Service Commission is charged with the development and monitoring of key performance indicators relating to the systems, standards, measures and mechanisms to assess their performance.

[196] Given that in sections 1, 2 and 3 of Chapter II of this Report provides an updated and detailed follow-up of the recommendations formulated to Saint Vincent and the Grenadines in the Second Round of Review, as well as the systems, standards, measures and mechanisms that the suggested recommendations concern, the Committee believes that this recommendation is redundant.

III. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY SAINT VINCENT AND THE GRENADINES OF THE CONVENTION PROVISIONS SELECTED FOR THE FIFTH ROUND

1. INSTRUCTIONS TO GOVERNMENT PERSONNEL TO ENSURE PROPER UNDERSTANDING OF THEIR RESPONSIBILITIES AND THE ETHICAL RULES GOVERNING THEIR ACTIVITIES (ARTICLE III, PARAGRAPH 3 OF THE CONVENTION)

[197] In accordance with the Methodology adopted by the Committee for the Fifth Round regarding the implementation of Article III, paragraph 3 of the Convention, which refer to measures that are intended to establish, maintain and strengthen “instruction[s] to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities,” the country under review selected the Training Division at the Service Commissions Department, the entity responsible for providing instruction to the human resources of the various government institutions and commissions.

1.1. Existence of a legal framework and/or other measures

[198] The Committee notes the existence of provisions and/or measures for providing instructions to personnel under the purview of the Service Commissions Department which ensure proper understanding of their responsibilities, among which the following provisions are noted:

[199] With respect to provisions and/or measures for providing instructions to government personnel to ensure proper understanding of their responsibilities, Section 17 of the Public Service Commission Regulations provides that the Commission is responsible for the supervision of training: “In the performance of its functions in connection with the appointment, promotion or transfer of officers in the public service, the Commission shall supervise the selection of persons, whether employed in the public service or not, for the grant of study leave and for the award of scholarships for special training for the public service.”

[200] As to the manner in which personnel are informed of their responsibilities and functions, indicating whether this is done verbally or in writing and whether records are kept of those instructions, during the on-site visit, the country under review noted that civil servants are informed verbally at induction.

78 Ibid., pg. 10.
trainings as well as in writing by virtue of a job description which contains personnel duties and responsibilities and a formal letter of employment.

[201] As regards the occasions when personnel are informed of their responsibilities or functions, indicating whether this is when they begin performing them or at some later point; when said functions change; or when functions change due to a change of duties, the country under review, during the on-site visit, noted that civil servants are informed of their responsibilities when they begin their job and that in the event of any change of job/post, this is done accordingly.

[202] As to the existence of induction, training, or instruction programs and courses for personnel on the proper performance of their responsibilities and functions, and, in particular, to make them aware of the inherent corruption risks in their performance, the country under review notes that there are informal induction trainings in place to inform the personnel. During the on-site visit, representatives of the Service Commissions Department added that there are five types of training: induction training, a public service development programme, a graduate development programme, an office attendant’s development programme and customized training requested by the heads of Ministries. 80

[203] As to the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the representative of the Training Division, during the on-site visit, indicated that they disseminate training opportunities via the government’s website with the assistance of the Information Technology Services Division (ITSD); that they use PowerPoint presentations for instructions during in-service training programmes and that consideration has been given to creating instructive videos to complement the in-service training programme modules. 81

[204] As to the existence of bodies to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly, the country under review, during the on-site visit, indicated, that civil servants can resort to the head of each Department, as well as to the Chief Personnel Officer.

[205] In terms of the existence of a governing organ, authority or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of their responsibilities and functions, the country under review, noted that the authorities responsible are the Permanent Secretary of the relevant Ministry and the Service Commissions Department.

[206] As to the manner in which personnel are informed of the ethical rules governing their activities, indicating whether this is done verbally or in writing and whether records are kept of those instructions, the country under review, during the on-site visit, noted that civil servants are informed verbally in the informal induction trainings organized by each Ministry, and during the trainings organized by the Training Division of the Service Commissions Department.

[207] Regarding the occasions when personnel are informed of ethical rules governing their activities, indicating whether this is done when they begin performing them or at some later point; when a change in their functions entails a different set of applicable ethical rules; or when changes are made to those rules, the country under review, during the on-site visit, noted that civil servants are informed of the ethical rules governing their activities when participating in the trainings organized by the Training Division of the Service Commissions Department.

81 Ibid.
[208] As regards the existence of introductory, training or instructional programs and courses for personnel on the ethical rules governing their activities, the country under review, in its presentation during the on-site visit, indicated that there is an ethical component in most of the training courses offered by the Service Commissions Department.\(^{82}\)

[209] As to the use of modern communication technologies to apprise personnel of the ethical rules governing their activities, the representative of the Training Division, during the on-site visit, indicated that they disseminate ethical training opportunities via the government’s website with the assistance of the Information Technology Services Division (ITSD); that they use PowerPoint presentations for instructions during in-service training programmes and that consideration has been given to creating instructive videos to complement the in-service training programme modules.\(^{83}\)

[210] As to the existence of bodies to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, the country under review, during the on-site visit, noted that personnel could obtain information from the Permanent Secretary of the relevant Ministry and the Service Commissions Department.

[211] In terms of the existence of a governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, the country under review, noted that there is a supervisory mechanism in the respective ministries, departments and offices and the supervisor, as well as the head of the department and Service Commissions Department are responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities.

1.2. Adequacy of the legal framework and/or other measures

[212] With respect to the statutory and other legal provisions reviewed by the Committee on the measures intended to provide instructions to government personnel under the purview of the Service Commissions Department that ensure proper understanding of their responsibilities and the ethical rules governing their activities, the Committee notes that they are relevant for promoting the purposes of the Convention.

[213] Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures:

[214] The Committee notes that although the Public Service Commission Regulations provide that the Commission is responsible for special trainings in the public service, there are no legal provisions in place in the country under review to make it mandatory for public servants to receive instructions which ensure proper understanding of their responsibilities. Likewise, there are no legal provisions in place that make it mandatory for public servants to receive instructions on the ethical rules that govern their activities. The Committee will formulate recommendations. (See Recommendations 1.4.1 and 1.4.2 in Section 1.4 of Chapter III of this Report)

[215] Similarly, during the on-site visit, representatives of the Service Commissions Department stated that there are no formalized or standardized induction programs in the departments under its purview. In that regard, the country under review should consider establishing formal mandatory induction programs.

\(^{82}\) Ibid.
\(^{83}\) Ibid.
for all departments in the public service, in order to ensure proper understanding by public servants of their responsibilities. In this respect, it should also consider developing an induction manual within a time frame set in a schedule adopted for that purpose. (See Recommendations 1.4.3 and 1.4.4 in Section 1.4 of Chapter III of this Report)

[216] During the on-site visit, public officials mentioned the need for capacity building of the personnel of the Training Division. In this regard, the Committee notes it is unclear if there are established induction programs for personnel of the Training Division of the Service Commissions Department to ensure the proper understanding of their responsibilities when providing training to personnel of other departments. The Committee will formulate a recommendation in that regard. (See Recommendation 1.4.5 in Section 1.4 of Chapter III of this Report)

[217] The Committee also believes that the country under review should also consider establishing formal mandatory induction programs that provides instruction both for personnel of the Training Division of the Service Commissions Department, and the departments of the public service that fall under its purview, regarding the ethical rules governing their activities. In this respect, it should also consider developing an induction ethics manual within a time frame set in a schedule adopted for that purpose. The Committee also considers that it would be useful for the country under review to consider establishing procedures requiring personnel to be informed of those ethical rules when there is a change in their functions, when a different set of ethical rules is applied, or when changes are made to those rules. The Committee will formulate recommendations. (See Recommendations 1.4.6, 1.4.7 and 1.4.8 in Section 1.4 of Chapter III of this Report)

[218] In this context, the Committee also notes that training programs organized by the Service Commissions Department do not include modules on inherent corruption risks in the performance of functions or on the potential consequences and penalties for involvement in acts of corruption. The Committee will formulate a recommendation in this regard. (See Recommendation 1.4.9 in Section 1.4 of Chapter III of this Report)

[219] During the on-site visit, the representatives of the Service Commissions Department mentioned that the budget allocated for the Training Division had decreased from 12.1 million in 2018 to 11.6 million in 2019 and that there are challenges related to limited skilled personnel and physical spaces to conduct trainings. In this regard, the Committee considers it useful for the country under review to consider adopting pertinent measures to ensure that the Training Division of the Service Commissions Department is provided with the necessary human resources as well as sufficient financial resources to perform its functions properly, within available resources. The Committee will formulate a recommendation in that regard. (See Recommendation 1.4.10 in Section 1.4 of Chapter III of this Report)

[220] The Committee also believes that the country under review should consider designating a body to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, as well as designating a governing body responsible for defining, steering and giving guidance on these ethical rules, and that this body is able to enforce the norms and or measure in force in this regard.

[221] In this respect, the Committee believes that obtaining information from the Permanent Secretary of the relevant Ministry and the Service Commissions Department, or relying on the existence of a supervisory mechanism in the respective ministries, departments and offices and the supervisor, as well as the head of the department and Service Commissions Department for defining, steering, and giving
guidance on ethical rules governing their activities, may not be adequate. The Committee will formulate recommendations. (See Recommendations 1.4.11 and 1.4.12 in Section 1.4 of Chapter III of this Report)

[222] Finally, the Committee would also like to highlight that in the Report of the Fourth Round, the country under review received pertinent recommendations related to providing instructions to personnel on their ethical rules. In that respect, recommendations for the consideration of the country under review included providing the Service Commissions Department with computer systems and modern technological tools for the effective and efficient management and for promoting the training of the public administration’s human resources; and to take the appropriate steps to supplement the training programs given by the Department with courses on ethics, probity, transparency, and deontological standards governing public officials.85

[223] The Committee observes that the country under review should take into account these recommendations, among others, with respect to functions of the Service Commissions Department.

[224] The Committee also notes that recommendations were also provided in the Report of the Fourth Round, regarding the standards of conduct in the public service. To this end, it was recommended that the country under review consider strengthening, complementing and updating the standards governing the conduct of public servants in general, including those provisions designed to prevent conflicts of interest; and to create and implement mechanisms to determine if a person who performs public functions is in a situation of conflict of interests, and, at the same time, adopt measures necessary to protect public interests, such as dissociation from the exercise of their functions, withdrawal from official involvement in the matter, relinquishment of the private interests in conflict, or nullity of any decisions adopted by a person in such a position.

[225] The designation of a body to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, as well as the designation of a governing body responsible for defining, steering and giving guidance on these ethical rules, would assist in the implementation of the recommendations above.

1.3. Results

[226] The country under review provided, during the on-site visit, the number of new entrants into the public service that received induction trainings: 125 officers in 2017; 107 officers in 2018 and 125 officers in 2019.86 The Committee notes, however, that the general nature of the information provided does not allow the Committee to analyze comprehensively the results.

[227] In light of the foregoing, the country under review should consider collecting and analyzing information on the training it provides to government officials with respect to instructions to ensure proper understanding of their functions, such as such as the holding of introductory, training or instructional programs and courses to that end; the periodicity or frequency with which they have been held and the number of personnel trained; the preparation of guidelines for human resource personnel on the proper performance of their functions and the risks of corruption inherent in the performance of their responsibilities; responses to inquiries by personnel of the Training Division on the correct performance of functions of human resource personnel, and the use of modern technology for this purpose; and indicators that this information was understood and applied in the performance of their functions. The Committee will formulate a recommendation. (See Recommendation 1.4.13 in Chapter III of this Report)

86 Presentation of the Training Division, supra note 80.
[228] The country under review should also consider collecting and analyzing information on the training provided to government officials on the ethical rules that govern their activities, such as the holding of introductory, training or instructional programs and courses to that end; the periodicity or frequency with which they have been held, and the number of public servants covered by them; implementation of programs for the same purpose; preparation of guidelines to counsel public servants on the scope and interpretation of those ethical rules and about the consequences of failure to abide by them for public institutions and the wrongdoers; responses to inquiries by public servants to that same end and the use of modern communication technologies for that purpose; activities undertaken to ascertain whether the objective of ensuring that the ethical rules are understood was in fact achieved; and actions undertaken by the authorities or bodies responsible for ensuring that instructions to that end are fully imparted and with ensuring the enforcement of provisions and/or measures in force. The Committee will formulate a recommendation. (See Recommendation 1.4.14 in Chapter III of this Report)

1.4. Conclusions and recommendations

[229] Based on the review conducted regarding the implementation in Saint Vincent and the Grenadines of Article III, paragraph 3 of the Convention, the Committee offers the following conclusions and recommendations:

[230] Saint Vincent and the Grenadines has considered and adopted measures intended to establish, maintain and strengthen the instructions provided to government personnel by the bodies selected that ensure proper understanding of their responsibilities and the ethical rules governing their activities, as described in Chapter III, Section 1 of this Report.

[231] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

1.4.1. Consider adopting legal provisions that make it mandatory for public servants to receive instructions which ensure proper understanding of their responsibilities. (See paragraph 214 in Section 1.2 of Chapter III of this Report)

1.4.2. Consider adopting legal provisions that make it mandatory for public servants to receive instructions on the ethical rules that govern their activities. (See paragraph 214 in Section 1.2 of Chapter III of this Report)

1.4.3. Establish formal mandatory induction programs to be implemented by all departments in the public service under the purview of the Service Commissions Department, in order to ensure proper understanding by public servants of their responsibilities, subject to the availability of resources. (See paragraph 215 in Section 1.2 of Chapter III of this Report)

1.4.4. Develop guide and/or manuals to standardize formal mandatory trainings to be used by all departments in the public service that fall under the purview of the Service Commissions Department, within a time frame set in a schedule adopted for that purpose, in order to ensure proper understanding by public servants of their responsibilities. (See paragraph 215 in Section 1.2 of Chapter III of this Report).

1.4.5. Establish formal mandatory induction programs for personnel of the Training Division of the Service Commissions Department in order to ensure that they have a proper understanding of their responsibilities when providing training to personnel of other
1.4.6. Establish formal mandatory induction programs on the ethical rules that govern the activities of public servants for the personnel of the Training Division of the Service Commissions Department and the departments in the public service that fall under its purview. (See paragraph 216 in Section 1.2 of Chapter III of this Report)

1.4.7. Develop guide and/or manuals to standardize formal mandatory trainings on the ethical rules that govern the activities of public servants, to be used by all departments in the public service that fall under the purview of the Service Commissions Department, within a time frame set in a schedule adopted for that purpose. (See paragraph 217 in Section 1.2 of Chapter III of this Report).

1.4.8. Require that public servants be informed of the ethical rules that govern their activities, when there is a change in their functions, when a different set of ethical rules is applied, or when changes are made to those rules. (See paragraph 217 in Section 1.2 of Chapter III of this Report)

1.4.9. Include in the training programs offered to departments in the public service that is under the purview of the Service Commissions Department, modules on inherent corruption risks in the performance of functions or on the potential consequences and penalties for involvement in acts of corruption. (See paragraph 218 in Section 1.2 of Chapter III of this Report)

1.4.10. Adopt the necessary measures for strengthening the Training Division of the Service Commissions Department and ensure that it is provided with the necessary human resources to perform its functions properly, within available resources. (See paragraph 219 of Section 1.2 of Chapter III of this Report)

1.4.11. Designate a body to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities. (See paragraph 221 of Section 1.2 of Chapter III of this Report)

1.4.12. Designate a governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard. (See paragraph 221 of Section 1.2 of Chapter III of this Report)

1.4.13. Collect and analyze information on the training provided to government officials with respect to instructions to ensure proper understanding of their functions, such as such as the holding of introductory, training or instructional programs and courses to that end; the periodicity or frequency with which they have been held and the number of personnel trained; the preparation of guidelines for human resource personnel on the proper performance of their functions and the risks of corruption inherent in the performance of their responsibilities; responses to inquiries on the correct performance of functions of human resource personnel, and the use of modern technology for this purpose; and indicators that this information was understood and applied in the performance of their
functions, in order to identify challenges and recommend corrective measures, where appropriate. (See paragraph 227 in Section 1.2 of Chapter III of this Report)

1.4.14. Collect and analyze information on the training provided to government officials on the ethical rules that govern their activities, such as the holding of introductory, training or instructional programs and courses to that end; the periodicity or frequency with which they have been held, and the number of public servants covered by them; implementation of programs for the same purpose; preparation of guidelines to counsel public servants on the scope and interpretation of those ethical rules and about the consequences of failure to abide by them for public institutions and the wrongdoers; responses to inquiries by public servants to that same end and the use of modern communication technologies for that purpose; activities undertaken to ascertain whether the objective of ensuring that the ethical rules are understood was in fact achieved; and actions undertaken by the authorities or bodies responsible for ensuring that instructions to that end are fully imparted and with ensuring the enforcement of provisions and/or measures in force, in order to identify challenges and recommend corrective measures, where appropriate. (See paragraph 228 in Section 1.2 of Chapter III of this Report)

2. THE STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE (ARTICLE III, PARAGRAPH 12 OF THE CONVENTION)

2.1 STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE

[232] The country under review, during the on-site visit, noted that it has not carried out studies of prevention measures that take into account the relationship between equitable compensation and probity in public service.

2.2 ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT CRITERIA FOR DETERMINING THE COMPENSATION OF PUBLIC SERVANTS

2.2.1 Existence of a legal framework and/or other measures

[233] During the on-site visit, the country under review stated that there are objective and transparent criteria for determining the compensation of public servants since there is a classification system of positions for all civil servants with grades and corresponding salary scales.

[234] In addition, the representatives from the Treasury noted that there is one overarching salary scale for Established and Non-Established personnel in Saint Vincent and the Grenadines. The salary scales are published and is found as the Appendix III to the Annual Estimate. The Committee notes that it was able to find the Estimates of Revenue and Expenditure online for the year 2018, on the website of the Ministry of Finance. 87

[235] The representative also noted that the salary for the Ministers and Parliamentarians do not follow the salary scales and that they are determined through specific legislations.

Finally, Chapter IV of the Civil Service Orders establishes the salaries and acting allowances. Section 4.1 states that “the salaries attached to public offices are as provided in the Government’s Annual Estimates of Expenditure and approved by Parliament.” Chapter IV also provides for incremental salary scales, payment of salaries, promotional increase in salaries, among other matters. Chapter V of the Civil Service Orders provides advances, subsistence, traveling and other allowances.

2.2.2 Adequacy of the legal framework and/or other measures

With respect to the establishment of objective and transparent criteria for determining the compensation of public servants that have been examined by the Committee, based on the information made available to it, they constitute, as a whole, a set of measures relevant for promoting the purposes of the Convention.

Nonetheless, the Committee considers it appropriate to make an observation regarding the advisability for Saint Vincent and the Grenadines to consider complementing and implementing certain provisions in this area, taking into account the following:

The Committee notes that it could only find an online copy of the Estimates of Revenue and Expenditures for the year 2018 on the website of the Ministry of Finance, but it could not easily access other documents, such as the Estimates of Revenue and Expenditure of previous years. The Committee will formulate a recommendation that the country under review consider taking the necessary steps to make sure that all documents, legislation and circulars related to salaries scales, including the Estimates of Revenue and Expenditures are readily accessible online to the general public. (See Recommendation 2.2.3.1 in Chapter III of this Report).

Likewise, although the salaries are published in the Estimates of Revenue and Expenditures, the Committee notes that these are voluminous and may make consulting salary scales difficult and less accessible to the general public. In that regard, the Committee believes that the country could benefit from publishing a simplified document with the salary scales and making it readily accessible online for the general public. The Committee will formulate a recommendation in that respect. (See Recommendation 2.2.3.2 in Chapter III of this Report).

Finally, the Committee observes that the salaries for the Ministers and Parliamentarians do not follow the salary scales and that they were not found online on the website of the Ministry of Finance. Nor was the Committee able to find information on the manner the salary for members of the Judiciary are determined. The Committee will formulate a recommendation that the country under review consider taking the necessary steps to make sure that the salaries of the Ministers and Parliamentarians are readily accessible online to the general public, as well as that of the Judiciary. (See Recommendations 2.2.3.3 and 2.2.3.4 in Chapter III of this Report).

2.2.3 Conclusions and recommendations

Based on the review conducted in the above sections regarding the implementation by Canada of Article III, paragraph 12 of the Convention, the Committee offers the following conclusions and recommendations:

88 Civil Service Orders, supra note 13.
Saint Vincent and the Grenadines has considered and adopted measures intended to establish objective and transparent criteria for determining the compensation of public servants, as described in Chapter III, Section 2 of this Report.

In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

2.2.3.1 Take the necessary steps to make sure that all documents, legislation and circulars related to salaries scales, including the Estimates of Revenue and Expenditures are readily accessible online to the general public. (See paragraph 239 in Section 2.2 of Chapter III of this Report)

2.2.3.2 Consider publishing a simplified document with the salary scales for all offices in the branches of government and make is readily accessible online to the general public. (See paragraph 240 in Section 2.2 of Chapter III of this Report).

2.2.3.3 Take the necessary steps to make sure that the current salaries of the Ministers and Parliamentarians are readily accessible online to the general public. (See paragraph 241 in Section 2.2 of Chapter III of this Report)

2.2.3.4 Take the necessary steps to make sure that the current salaries of the Judiciary are readily accessible online to the general public, as well as the manner they are determined. (See paragraph 241 in Section 2.2 of Chapter III of this Report)

IV. BEST PRACTICES

The country under review did not present any best practices in relation to the Convention provisions selected for the Second and Fifth Rounds of Review.
## Agenda of the On-Site Visit to Saint Vincent and the Grenadines

### Monday March 25, 2019

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>16:00 hrs. – 16:30 hrs.</td>
<td>Coordination meeting between the representatives of the member states of the subgroup and the Technical Secretariat</td>
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<tr>
<td>Location: Hotel Beachcombers</td>
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<tr>
<td>16:30 hrs. – 17:00 hrs.</td>
<td>Coordination meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat</td>
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<td>Location: Hotel Beachcombers</td>
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### Tuesday March 26, 2019

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<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>8:30 hrs. – 12:30 hrs.</td>
<td>Meetings with civil society organizations and/or, <em>inter alia</em>, private sector organizations, professional organizations, academics or researchers</td>
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<tr>
<td>Location: The Attorney General's Chambers</td>
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<tr>
<td>8:30 hrs. – 10:30 hrs</td>
<td><strong>Session 1</strong></td>
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<td>Follow-Up of the Recommendations of the Second Round:</td>
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<td>- Systems of government hiring</td>
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<td></td>
<td><strong>Participants:</strong></td>
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<tr>
<td></td>
<td>Elroy Boucher, Public Service Union (PSU)</td>
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<td></td>
<td>Joel Poyer, Public Service Union (PSU)</td>
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<td>Elizabeth Williams, Public Service Union (PSU)</td>
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<td>Celena McDonald, Public Service Union (PSU)</td>
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<td>Harvey Farrell, Public Service Union (PSU)</td>
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<td>Joseph Bonadie, National Labour Congress (NLC)</td>
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<td>Noel Jackson, National Workers Movement (NWM)</td>
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| 10:30 hrs. – 11:30 hrs. | **Session 2** | Follow-Up of the Recommendations of the Second Round:  
  - Systems of government procurement of goods and services  
  Participants:  
  Ms. Moureeze Franklyn, Chamber of Industry and Commerce |
| 11:30 hrs. – 12:30 hrs | **Session 3** | Follow-Up of the Recommendations of the Second Round:  
  - Protection for whistleblowers of acts of corruption  
  - Acts of Corruption  
  Participants:  
  Ms. Rene Baptiste, Bar Association |
| 12:30 hrs. – 14:00 hrs. | **Lunch** |                                                                                 |
| 14:00 hrs. – 17:00 hrs. | **Panel 1: Systems of Government Hiring** |  
  - Different stages and merit in the recruitment process  
  - Control mechanisms to ensure compliance with hiring norms  
  - Revision of the Civil Service Orders  
  - Advertisement of opportunities or vacancies  
  - Establishment of administrative challenge mechanisms  
  - Art. 56 of Eastern Caribbean Civil Procedure Rules. |
|             | **Location:** | The Attorney-General's Chambers |
Participants:
Mr. Cecil Blazer Williams, Public Service Commission
Stephen Williams, Member, Public Service Commission
Mr. Clarence Harry, Director, Public Sector Reform Unit (PSRU), Service Commission Department
Emma Jackson, Deputy Director, Public Sector Reform Unit (PSRU), Public Service Commission
Mrs. Arlene Regisford-Sam, Chief Personnel Officer, Service Commission Department
Mr. Kezron Walters, The Attorney General’s Chambers

17:00 hrs. – 17:30 hrs.
Location: Hotel Beachcombers
Informal meeting between the representatives of the member states of the subgroup and the Technical Secretariat.

Wednesday, March 27, 2019

8:30 hrs. – 12:30 hrs.
Location: The Attorney-General’s Chambers
Panel 2: Systems of Government Procurement of Goods and Services

- The Finance Administration Act - Ministry of Finance
- Procurement Bill - The Attorney General’s Chambers
- The World Bank Procurement Regulations
- Informal Registry of Suppliers and Bidders - Central Supplies and Tenders Board
- Registry of Contractors - Ministry of Transport and Works
- Publication of Tender Opportunities
- Evaluation of Bids
- Electronic Procurement and Communication Systems - ITSD
- Citizen Oversight Mechanism
- Results
<table>
<thead>
<tr>
<th>Time</th>
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<tbody>
<tr>
<td>12:30 hrs. – 14:00 hrs.</td>
<td>Lunch</td>
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<tr>
<td>14:00 hrs. – 15:30 hrs</td>
<td>Panel 3: Acts of Corruption</td>
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<tr>
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<td></td>
<td>• Consolidation of the Criminal Code of the Revised Laws 2009</td>
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<td>• Criminal Code of Saint Vincent and the Grenadines, Chapter 5,</td>
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<td>Section 85</td>
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<td>• Results</td>
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<tr>
<td>Participants:</td>
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<td>Junior Simons, Royal St. Vincent and the Grenadines Police Force</td>
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<tr>
<td>15:30 hrs. – 17:00 hrs.</td>
<td>Panel 4: Systems for Protecting Public Servants and Private Citizens</td>
</tr>
<tr>
<td>Location</td>
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</tbody>
</table>
- The Witness Protection (Special Measures) Act 2013
- Protection measures to whistleblowers in administrative proceedings
- Protection measures for all other citizens
- Protection of Physical Integrity; Workplace
- Anonymous reporting or protection of identity reporting
- Authorities to Process Protection Requests
- Protection Measures for Private Citizens
- Authorities Responsible for Protection
- Mutual Assistance in Criminal Matters Act
- Challenges
- Results

**Participants:**
Sejilla McDowall, Director (Ag.), *Director of Public Prosecutions*
Rose-Ann Richardson, Crown Counsel, *Director of Public Prosecutions*
Frankie Joseph, Deputy Commissioner, *Royal St. Vincent and the Grenadines Police Force*
Richard Browne, Assistant Commander Crimes, *Royal St. Vincent and the Grenadines Police Force*
Junior Simons, *Royal St. Vincent and the Grenadines Police Force*

**Thursday March 28, 2019**

**08:30 hrs. – 11:30 hrs.**
*The Attorney-General's Chambers*
**Panel 5: Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities**
- Legal framework
- Training programs
- Use of technology
- Challenges
- Results
- Technical cooperation needs

**Participants:**
Dr. Resa Noel, *Director of Training, Service Commissions Department*

**11:30 hrs. – 13:00 hrs.**
*The Attorney-General's Chambers*
**Panel 6: Equitable Compensation and Probity in the Public Service**
### General's Chambers

- Criteria currently used to determine salary of public servants
- Challenges
- Results
- Technical cooperation needs

### Participants:

Ms. Debbie Antoine, Accountant General, Treasury
Ms. Kayanna Burke, Establishment Officer, Ministry of Finance

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<td>15:30 hrs. – 16:00 hrs</td>
<td><strong>Final meeting</strong></td>
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<tr>
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COUNTRY UNDER REVIEW

SAINT VINCENT AND THE GRENADINES

Jaundy O.R. Martin
Lead Expert, Committee of Experts of the MESICIC
Attorney General
Ministry of Legal Affairs

Kezron Walters
Alternate Expert, Committee of Experts of the MESICIC
Crown Solicitor, Ministry of Legal Affairs
Ministry of Legal Affairs

MEMBER STATE OF THE REVIEW SUBGROUP:

ANTIGUA AND BARBUDA

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Expert, Committee of Experts of the MESICIC
Crown Solicitor, Ministry of Legal Affairs
Attorney General's Ministry

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Greg Koster
Expert, Committee of Experts of the MESICIC
Senior Counsel, Criminal Law Policy Section
Department of Justice

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Legal Officer
Department of Legal Cooperation
OAS Secretariat for Legal Affairs