

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
Twenty-First Meeting of the Committee of Experts
March 18 – 22, 2012
Washington, DC

OEA/Ser.L
SG/MESICIC/doc.360/12 rev. 4
21 March 2013
Original: Spanish

REPUBLIC OF ARGENTINA

FINAL REPORT

(Adopted at the March 21, 2013 Plenary Session)

SUMMARY

This report contains the comprehensive review of the implementation in Argentina of Article III, paragraph 9, of the Inter-American Convention against Corruption, covering “oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts,” which was selected by the MESICIC Committee of Experts for the Fourth Round; of the best practices reported by those bodies; and of the follow-up of the implementation of the recommendations formulated to Argentina during the First 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 Fourth Round, including the criteria set out therein for guiding the review based on equal treatment for all the 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 taking into account Argentina’s response to the questionnaire, information provided by civil society organizations, information gathered by the Technical Secretariat, and, as a new and important source of information, the on-site visit conducted between October 16 and 18, 2012, by the members of the review subgroup for Argentina, comprising of Guatemala and Suriname, with the support of the Technical Secretariat. During that visit, the information furnished by Argentina was clarified and expanded and the opinions of civil society organizations, professional associations, academics, and researchers on issues of relevance to the review were heard.

The review of the oversight bodies was intended, in accordance with the terms of the methodology for the Fourth Round, to determine whether they have a legal framework, whether that framework is suitable for the purposes of the Convention, and whether there are any objective results; then, taking those observations into account, the relevant recommendations were issued to the country under review.

The following oversight bodies in Argentina are reviewed in this report: Prosecutor for Administrative Investigations (FIA); the Judicial Branch of the Nation (PJN); Office of the Auditor General (AGN); Inspector General of the Nation (SIGEN); and the Anticorruption Office (OA).

Some of the recommendations formulated to Argentina for its consideration in connection with the aforementioned bodies are aimed toward objectives, such as the following:

With respect to the FIA, the objective is to specify its functions; strengthen interinstitutional coordination; adapt its organizational structure to take into account the specialties of the prosecutors; appoint senior posts that are vacant; establish the Bicameral Congressional Committee to which it has to report on its work; and prepare statistics on the investigations the FIA conducts, in order to identify challenges and recommend corrective measures.

As for the PJN, the recommendations include examining the possibility of comprehensively transitioning the federal criminal justice system to an adversarial one; establish the new National Criminal Cassation Chamber for ordinary jurisdiction, which would relieve the workload of the current Federal Criminal Cassation Chamber, which hears corruption cases; expediting the appointment of federal judge positions using the selection procedure provided for in the National

Constitution; strengthening the mechanisms so that federal judges can have more support personnel in complex cases involving the investigation and prosecution of acts of corruption; analyzing the reasons for the slow pace of proceedings in such cases; and compiling statistics on the amount of the assets covered by an injunction and/or recovered for the State by the federal courts, pursuant to Article 23 of the Criminal Code, in order to identify challenges and recommend corrective measures.

As for the AGN, the recommendations regard enacting the law regulating its organizational structure and functions contemplated in Article 85 of the National Constitution; strengthening interinstitutional coordination; granting the AGN more active participation in judicial proceedings dealing with cases in which the State's financial interests are harmed in jurisdictions and agencies subject to its competence and strengthening the mechanisms for making the perpetrators answerable for their actions; guaranteeing the AGN expeditious and timely access to the information it needs to perform its functions

Regarding the SIGEN, the recommendations refer to boosting its functions vis-à-vis state-owned enterprises and those in which the State has an equity share, so that it can secure information regarding their social responsibility; increasing functional coordination with other bodies in relation to actions designed to recover economic harm caused to the State and the compilation of statistics thereon; and to access to certain reports on its website.

In the case of the OA, the recommendations have to do with strengthening interinstitutional coordination; ensuring that it has the human resources it needs, in line with increases in the volume of activities entrusted to it; and encouraging the continuity of the Plan for Strengthening the Sworn Statements Regime adopted by the OA, which provides for a review of the regulations and procedures related to that regime.

The best practices described by Argentina refer, essentially, to an "Office of Coordination and Follow-Up for Crimes against the Public Administration," established within the prosecutorial arm of the Attorney General's Office to collaborate with the public prosecutors working on corruption cases and which was absorbed by the Office of the Prosecutor for Economic Crimes and Money Laundering, which was created by Resolution PGN 914/12; to the "Judicial Information Center (CIJ)/ Open Government," which is a Supreme Court initiative to encourage citizen participation in the administration of justice via the Internet and to promote transparency; to an "Integrated Interinstitutional Communication Program" of the AGN, designed to publicize its work and make it more accessible to citizens; to a "Federal Public Oversight Network," instituted via the SIGEN, to form part of and complement national, provincial, and municipal State Inspection and Audit Units, with a view to assessing the performance of social programs; and to a "System of Comprehensive Sworn Statements of Net Worth of Public Officials" of the OA, which deals with transparency, accountability, the prevention of conflicts of interest and incompatibilities, and the detection of illicit enrichment.

With regard to follow-up on the recommendations formulated to Argentina in the First Round and with respect to which, the Committee, in the Second and Third Round reports, found required additional attention, based on the methodology for the Fourth Round and bearing in mind the information provided by Argentina 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 considered valid, and a list of those still pending was also prepared, and has been included in Annex I of the report.

Notable advances in implementing such recommendations include the OA's distance training courses for government officials conducted through the Public Ethics Training System on public ethics-related topics; dissemination by the OA of corruption prevention policies through publications containing guidelines on key related aspects, such as prevention of conflicts of interest, public officials' sworn statements, citizen participation, and government procurement; and the promotion of civil society participation by oversight bodies through their Internet websites and, in some cases, through social media such as "Facebook", "YouTube" and "LinkedIn."

Some of the recommendations formulated to the Argentina in the First Round that are still pending address issues such as: strengthening the implementation of legal provisions and codes of conduct for preventing conflicts of interest; strengthening provisions and mechanisms for proper conservation and use of public resources; using the financial disclosure reports in the legislative and judicial branches and in the Office of the Attorney General for counseling public officials on how to avoid conflicts of interest, as well as to detect cases of illicit enrichment; establishing legal provisions supporting access to government information; and developing procedures for assessing the effectiveness of the systems and mechanisms for preventing and detecting corruption that were reviewed in the First Round.

**COMMITTEE OF EXPERTS OF THE MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION**

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF ARGENTINA OF THE
CONVENTION PROVISION SELECTED FOR REVIEW IN THE FOURTH ROUND, AND
ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO THAT COUNTRY
IN THE FIRST ROUND¹**

INTRODUCTION

1. Content of the Report

[1] This report presents, first, a comprehensive review of the Republic of Argentina's implementation of the provision of the Inter-American Convention against Corruption that was selected for review by the Committee of Experts of the Follow-up Mechanism (MESICIC) for the Fourth Round. That provision appears in Article III (9) of the Convention, pertaining to "Oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts."

[2] Second, the report will examine the best practices that the Republic of Argentina has voluntarily expressed its wish to share in regard to the oversight bodies under review in this report.

[3] Third, as agreed by the Committee of Experts of the MESICIC at its Eighteenth Meeting, in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties to the MESICIC, this report will address the follow-up of implementation of the recommendations that the Committee of Experts of MESICIC formulated to in the First Round and that it deemed to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which may be consulted at the following webpage: <http://www.oas.org/juridico/spanish/arg.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, Argentina deposited the instrument of ratification of the Inter-American Convention against Corruption on June 2, 1997.

[5] In addition, Argentina signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2001.

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Republic of Argentina

[6] The Committee wishes to acknowledge the cooperation that it received, throughout the review process, from the Republic of Argentina and in particular from the Anticorruption Office of the Ministry of Justice and Human Rights, which was evidenced, *inter alia*, in the response to the Questionnaire and in the constant willingness to clarify or complete its contents, and in the support for the on-site visit to which the following paragraph of this report refers. Together with its response,

1. This report was adopted by the Committee in accordance with the provisions of Articles 3 (g) and 25 of the Committee's Rules of Procedure, at the March 21, 2013 plenary session, within the framework of the Twenty - First Meeting of the Committee, held at OAS headquarters in Washington, D.C., from March 18 to 22, 2013.

the Republic of Argentina sent the provisions and documents it considered pertinent. That response and the provisions and documents may be consulted at the following webpage: www.oas.org/juridico/spanish/arg.htm

[7] The Committee also notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-Site Visits*.² As members of the preliminary review subgroup, the representatives of Guatemala and Suriname conducted the on-site visit from October 16 – 18, 2012, 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 thereto, in keeping with provision 34 of the *Methodology for Conducting On-Site Visits*.

[8] For its review, the Committee took into account the information provided by the Republic of Argentina up to October 18, 2012, the date on which the on-site visit ended, as well as that furnished and requested by the Secretariat and the members of the review subgroup to carry out its functions, in keeping with the *Rules of Procedure and Other Provisions*; the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round*; and the *Methodology for Conducting On-Site Visits*. This information may be consulted at the following webpage: <http://www.oas.org/juridico/spanish/arg.htm>

2. Information received from civil society organizations and/or, *inter alia*, private sector organizations; professional associations; academics and researchers

[9] The Committee also received, within the deadline set by the Committee in the Schedule adopted for the Fourth Round, a number of documents from the “Committee for Follow-Up on Implementation of the Inter-American Convention against Corruption”, sent by the “Inter-American Bar Association”, as well as from the “Forum of Studies on the Administration of Justice.” These documents were submitted by those organizations pursuant to Article 34(b) of the Committee’s *Rules of Procedure*.³

[10] Moreover, on the occasion of the on-site visit to the country under review from October 16 – 18, 2012, information was also gathered from other civil society organizations, professional associations, academics and researchers, who were invited to participate in the meetings held for that purpose, pursuant to provision 27 of the *Methodology for Conducting On-Site Visits*. A list of invitees is included in the agenda of the on site visit, which has been annexed to this report. This information is reflected in the appropriate sections of this report.

2. Document SG/MESICIC/doc.276/11 rev. 2, which may be consulted at the following webpage: http://www.oas.org/juridico/english/met_onsite.pdf

3. These documents were submitted by those organizations in electronic format on May 29 and June 7, 2012, respectively, and may be found on the MESICIC web site, in the section dealing with the Republic of Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>)

II. REVIEW, CONCLUSIONS, AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE FOURTH ROUND⁴

OVERSIGHT BODIES, WITH A VIEW TO IMPLEMENTING MODERN MECHANISMS FOR PREVENTING, DETECTING, PUNISHING, AND ERADICATING CORRUPT ACTS (ARTICLE III (9) OF THE CONVENTION)

[11] The Republic of Argentina has a set of oversight bodies for implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts, among which the following are highlighted: the Prosecutor for Administrative Investigations; the Judiciary of the Nation; the Office of the Auditor General; the Inspector General of the Nation; and the Anticorruption Office.

[12] The following is a brief description of the purposes and functions of the five bodies selected by the Republic of Argentina that are to be examined in this report:

[13] - The office of the Prosecutor for Administrative Investigations, which, under Article 43 of Law No. 24946, the Organic Prosecution Service Law, forms part of the Public Prosecution Service as an agency attached to the office of the Attorney General of the Nation. It specializes in the investigation of acts of corruption and administrative irregularities committed by employees of the National Administration. Its jurisdiction covers the personnel of centralized and decentralized agencies and bodies in which the State holds an interest.

[14] - The Judicial Branch of the Nation, which, under Article 108 of the National Constitution, comprises the Supreme Court of Justice and such lower courts established by Congress in the territory of the nation, which, under Article 116 thereof, are responsible for hearing and deciding on all cases involving matters governed by the Constitution and laws of the nation, subject to the reservations set out under this article.

[15] - The Office of the Auditor General, which, under Article 116 of the Financial Administration Law (Law No. 24156), is an external oversight body of the national public sector, attached to the National Congress, and, pursuant to Article 85 of the National Constitution, is responsible for overseeing the legality, management, and auditing of all activities of the centralized and decentralized public administration, regardless of the organizational model used, and for the other functions assigned to it in law, and shall necessarily participate in the adoption or rejection of income and expenditure accounts of public funds.

[16] - The Inspector General of the Nation, which, under Article 7 of the Financial Administration Law (Law No. 24156), is the lead agency for the internal oversight system of the national public sector and has competence over the internal oversight of the jurisdictions that make up the national executive branch of government and the decentralized organs and state companies and societies that depend thereon.

[17] - The Anticorruption Office, which operates within the Ministry of Justice and Human Rights and which, pursuant to Article 13 of the Ministries Law (Law No. 25233), “shall be responsible for preparing and coordinating programs to fight corruption in the national public sector and, in

4. This report deals with oversight bodies and provisions at the federal level, in the understanding that the nation’s provinces and municipalities and the federal capital can have similar oversight bodies and provisions.

conjunction with the office of the Prosecutor for Administrative Investigations, shall enjoy the powers and authorities established in Articles 26, 45, and 50 of Law No. 24946.”

1. PROSECUTOR FOR ADMINISTRATIVE INVESTIGATIONS (FIA)

1.1. Existence of provisions in the legal framework and/or other measures

[18] The office of the Prosecutor for Administrative Investigations (FIA) has a set of measures that make up its legal framework; it also has other measures, dealing with, *inter alia*, the following matters:

[19] Regarding its purpose, under Article 43 of Law 24946, the Organic Prosecution Service Law (LOMP), the FIA is a part of the Public Prosecution Service as an agency attached to the office of the Attorney General of the Nation. It specializes in the investigation of acts of corruption and administrative irregularities committed by employees of the National Administration. Its jurisdiction covers the personnel of centralized and decentralized agencies and bodies in which the State holds an interest. It has no authority over incidents within the legislative or judicial branches of government, or in the agencies of provincial or local governments.⁵

[20] In accordance with the aforesaid article of the LOMP, the FIA comprises a National Prosecutor for Administrative Investigations (FNIA) and the other magistrates provided for in that same law. Thus, sections (c) and (e) of Article 3 of the Law establish, in order, General Prosecutors and Prosecutors for Administrative Investigations. According to Article 5 of the Law, both the FNIA and the other prosecutors are selected by the executive branch from a shortlist of three names submitted by the Attorney General of the Nation (PGN), and their appointment requires the consent of a simple majority of the members of the Senate present. In addition, Article 6 of the Law provides that the shortlist of names shall be prepared on the basis of a public competition and the candidate’s background; Article 7 sets the requirements for holding those positions; Articles 9 and 10 deal with incompatibilities, disqualifications, and recusals; Article 13 states they are to enjoy tenure subject to good conduct and until reaching 75 years of age; and Articles 16 to 20 set out the disciplinary regime, indicating the sanctions, the authorities empowered to impose them, and the procedure for doing so.

[21] Article 45 of the aforesaid Organic Law establishes the FNIA’s duties and powers, including: (a) Pursuing investigations into the administrative conduct of employees belonging to the centralized and decentralized national administration, and to companies, societies, and all other bodies in which the State holds an interest. In all instances, investigations shall be pursued at the sole initiative of the FIA, without the need for an order from any other state authority, providing that its actions abide by the general instructions issued by the PGN. (b) Conducting investigations in all institutions and associations for which the main source of funding is state contributions, provided either directly or indirectly, in the event of reasonable suspicion of irregularities in the use made of those resources. (c) Reporting, to the competent judicial bodies, those facts that are deemed to constitute offenses as a result of the investigations carried out. In such cases, the FIA’s investigations shall have the force of preparations for summary proceedings. Bringing a criminal proceeding shall be the task the competent prosecutors before the court where the complaint is filed and, when applicable, before the appeals and cassation chambers, and the intervention of the FNIA or of the magistrates he determines shall be necessary. The FIA may assume, at any stage in the proceedings, the criminal prosecution, when the competent prosecutors referred to above are in disagreement with pursuing the action.

5. Argentina’s response to the questionnaire with respect to oversight bodies, p. 87.

[22] Article 48 of the Organic Law states that when, during judicial proceedings at a criminal venue, formal charges are brought against a public employee for actions related to his duties, the judge must report this circumstance to the FIA, and Article 49 thereof states that when the investigation conducted by the Prosecutor's office reveals breaches of administrative provisions, the FNIA will refer the proceedings, with a reasoned opinion, to the National Treasury Oversight Office⁶ or to the ranking administrative officer of the agency involved, in accordance with the powers assigned by the Regulations for Administrative Investigations.⁷

[23] Article 44 of Resolution PGN No. 18/05 (Internal Regulations of the FIA) regulates the kinds of participation that, under the terms of the LOMP, the FIA may have in administrative summary proceedings: Plaintiff, which shall enjoy the power to offer, produce, and include evidence and to appeal against any decision contrary to its claims; Assistant, which shall essentially work to ensure legality, the public order, and the general interests of society in coordination with the administrative authorities bringing the disciplinary action; Follow-up, which may request regular inspections that may cause a change in the type of intervention, and it may also request the status of plaintiff or assistant at any stage in the proceedings.⁸

[24] Article 45 of this Resolution regulates the kinds of participation that, pursuant to the terms of the LOMP, the FIA may have in judicial proceedings brought against public officials: Intervention in criminal trials, in which case it shall have powers equal to the prosecutor of the case and may request forms of evidence and suggest courses of action; Assistant in criminal trials, in which case it will act along with the case prosecutor, jointly defining the strategy for intervention; Follow-up, in which case regular certifications of the state of the proceedings shall be conducted, to assess the usefulness of or need to suggest forms of evidence or courses of action, and to amend the type of intervention in the proceedings to one of criminal proceedings or assistance.

[25] Regarding the way in which it adopts its decisions, Article 11 of this Resolution states that the General Instructions of the PGN and the General Instructions or Rules of the FNIA⁹ are binding for all the FIA's prosecutors, and that should a magistrate believe that they are contrary to law, he may record that finding in a reasoned opinion; and Article 27 provides that the FNIA may convene Meetings of Prosecutors to deal with the issuing of those rules, the redistribution or reallocation of personnel or tasks, or any other matter deemed of interest.

6. The National Treasury Oversight Office is a decentralized agency of the national executive branch, the administrative structure and budget of which are contained in the structure and budget of the Ministry of Justice and Human Rights of the Nation. It is the senior organ of the State Corps of Lawyers and, as such, provides legal advice for the national executive branch and its subsidiary agencies; it represents and defends the state at trial; it directs the State Corps of Lawyers; it conducts investigations and administrative summary proceedings in the cases provided for by law and when instructed to do so by the national executive branch; it records and audits trials in which the state is a party; and it covers the higher training needs of the State Corps of Lawyers.

7. The provision in question adds: "In both circumstances, the proceedings will serve as the opening of summary proceedings to be prepared by the corresponding authorities. In all these proceedings, which will be governed by the Regulations for Administrative Investigations, the Prosecutor's office shall necessarily appear as the plaintiff, with equal rights as the defendant, particularly the power to offer, produce, and include evidence and to appeal against any decision contrary to its claims. All of this shall be subject to the absolute and irrevocable annulment of the proceedings or resolution, as applicable."

8. Section 44.3 of the provision in question stipulates: "The type of intervention that the FIA shall have in administrative summary proceedings shall be subject to its interpretation of the alleged facts and to the determination as to whether it represents a case of institutional gravity or social relevance. It shall participate as plaintiff when the facts entail social relevance, economic gravity, and/or institutional interest or importance."

9. Article 29 of the Resolution stipulates that the FNIA may enact General Instructions or General Binding Rules to ensure unified criteria for the FIA's interventions and rulings, and to order changes and modifications in administrative and management processes, and for any other matter deemed necessary to ensure the good functioning of the agency.

[26] Regarding the way in which its personnel and the applicable regime are determined, Article 45(g) of the LOMP states that the FNIA shall propose, to the PGN, the creation, modification, or elimination of positions; Article 65, (e) and (d) respectively, state that the officers and personnel of the Public Prosecution Service shall be appointed by the PGN in accordance with the provisions of the applicable regulations;¹⁰ and that its officers and administrative employees shall enjoy tenure subject to good conduct and until reaching the legal requirements for obtaining the maximum percentages of the applicable pension regimes. Article 42 of Resolution PGN No. 18/05 provides that all the FIA's staff shall be subject to the duties, obligations, and disqualifications established by Article 9 of the aforesaid law for members of the Public Prosecution Service, and that in the event of noncompliance with the duties of their positions, the FNIA may punish the prosecutors in accordance with the procedure and sanctions provided for in the law, and that it may punish its officers and employees in accordance with the terms of the disciplinary regime of the office of the Attorney General.

[27] For its budgetary and technological resources, Article 22 of the LOMP states that to ensure its financial independence, the Public Prosecution Service shall have its own budget appropriation, provided through general revenue and specific resources. In addition, the 2011 Annual Report of the FIA, found on pages 467 to 474 of the *Report of the Public Prosecution Service – Office of the Attorney General of the Nation* for that year, speaks of several improvements in the information technology area of the FIA, including progress with the development of a new institutional web site that offers the possibility of lodging complaints.

[28] Regarding the description of functions and the existence of manuals or documented procedures for performing tasks, Resolution PGN No. 18/05 details the competences of the officers and units of the FIA and describes procedures for carrying them out. In addition, the Regulations for Administrative Investigations contained in Decree 467/96 are applicable to its functions, as is the federal Code for Criminal Procedure, for matters not covered by that resolution, to the extent that it is compatible with the informal and preliminary nature of the FIA (Resolution PGN No. 18/05, Article 16).

[29] Regarding the way in which information is made available to the public, under Article 17 of Resolution PGN No. 18/05, the FIA's investigations are confidential until a complaint is filed with the competent court or administrative venue. The FIA has a web page (<http://www.fia.gov.ar/>) containing information on its competence, structure, authorities, agreements, the manner to lodge a complaint, jurisprudence of relevance to the agency, and annual reports up to the year 2010.¹¹

[30] Regarding mechanisms for coordination with other agencies and for securing support from other authorities and from the public, and in connection with training for the FIA's personnel, Article 31 of Resolution PGN No. 18/05 includes, among the FNIA's powers, that of pursuing the interinstitutional relationships necessary for the operation of the FIA with other authorities, agencies, and offices of the State, with the Public Prosecution Service; with civil society organizations, with public and private universities, and with professional associations and private entities of any kind (31.16). It also includes entering into cooperation agreements with public or private agencies and

10. Resolution PGN No. 2-06 states that the Attorney General may delegate this authority to the FNIA and also deals with the requirements for holding those positions, the administrative career for permanent personnel, and the disciplinary regime.

11. The 2011 Annual Report of the FIA, appearing on pp. 467 to 474 of the *Report of the Public Prosecution Service – Office of the Attorney General of the Nation* for that year, states that “presently, the FIA is assessing the effectiveness of the information published on that site and is analyzing the possibility of amending its content so that people accessing it can obtain clear and concise summaries of the agency's most significant activities and undertakings.”

entities as a way to learn about possible offenses and irregularities, and to facilitate the pursuit of investigations and the training of the prosecutors, officers, and employees of the FIA (31.16).¹² Article 26 of the LOMP states that to better discharge their duties, the members of the Public Prosecution Service may request reports from national, provincial, and municipal bodies, from private organizations, and from private citizens, when applicable, and it may seek the assistance of police authorities to conduct formalities and summon individuals to its offices, for the sole purpose of taking witness statements. Article 50 of the Law also states that the FIA's magistrates may order expert examinations, for which purpose they may request public offices and officials for the necessary assistance, which they are then required to provide.

[31] Regarding accountability mechanisms, Article 43 of Resolution PGN No. 18/05 states that the FNIA shall report annually to the PGN on the management of the FIA, indicating: type of intervention resolved in each of the administrative summary proceedings and judicial cases reported; type of intervention made in administrative summary proceedings and judicial cases, and the results thereof; number of reports received and ex officio investigations opened; number of investigations opened during the period, and a summary of each one; results attained in the investigations closed during the period, indicating, as applicable, the administrative or judicial venue where presentations were made, and a brief summary of each one; obstacles or difficulties encountered in conducting investigations, and proposed solutions deemed appropriate. Article 32 of the LOMP, in turn, provides that each year, the PGN shall submit, to the Bicameral Commission created by the law,¹³ a detailed report on the activities of the Public Prosecution Service, which shall contain an evaluation of the work performed during the period; an analysis of the efficiency of the service, and concrete suggestions on any improvements and amendments needed.

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

[32] The office of the Prosecutor for Administrative Investigations (FIA) has a set of provisions and/or other measures that are relevant for the purposes of the Convention, some of which were succinctly described in section 1.1 of this report. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[33] First, bearing in mind that there are discrepancies between the contents of the country's response and the FIA's 2011 Annual Report, with that of the information gathered during the on-site visit with respect to the scope of the functions assigned to the FIA in the Organic Prosecution Service Law (LOMP), the Committee believes it would be useful for the country under review to consider the possibility of specifying those functions by means of a legal norm, so that the FIA can have the powers necessary to obtain, on a timely basis, the information it requires to prepare its investigations and to ensure that its intervention in administrative summary proceedings and in the criminal cases brought for administrative irregularities and acts of corruption committed by employees of the National Administration is timely and effective and is not hindered by the various different interpretations that exist regarding the scope of its powers (see recommendation 1.4.1 in Chapter II of this report).

12. Argentina's response to the questionnaire with respect to oversight bodies (p. 104) identifies the FIA's cooperation agreements with the European Anti-Fraud Office (OLAF) of the European Union, the Ministry of Labor of the national executive branch, the Financial Information Unit, the People's Defender of the Nation, and the civil society organizations "Institutions without Violence" and "Citizen's Power." The FIA's 2011 Annual Report lists the FIA's staff training activities (pp. 471 and 472).

13. Article 23 of the LOMP states that the relationship between the Public Prosecution Service and the legislative branch of government shall be conducted through a Bicameral Commission, whose composition and functions shall be determined by the two chambers of Congress.

[34] In connection with this, it should be noted that the country's response¹⁴ speaks of a discussion on the nature and scope of the interventions of the FIA and of the Federal Prosecutors in criminal proceedings, referring to a series of resolutions adopted by the PGN (Nos. 147/08 133/09, and 38/12),¹⁵ that indicate, among other matters, the scope of the FNIA's powers regarding its "necessary" intervention in criminal proceedings brought as a result of its own complaints (first paragraph of Art. 45(c) of the LOMP); the direct exercise of criminal action by the FIA (final paragraph of Art. 45(c) of the LOMP); the extension of the "direct exercise of public action" (final paragraph Art. 45(c) of the LOMP) to those cases in which the FIA seeks to appeal against the rejection of precautionary measures; and intervention in those criminal proceedings brought through channels other than a complaint made by the FIA itself (Art. 48 of the LOMP). Reference is also made to a judgment of the Supreme Court of Justice of the Nation that addresses this discussion.¹⁶

[35] In addition, the FIA's 2011 Annual Report states, in connection with the agency's participation in administrative venues, the following:¹⁷

[36] "For the moment, the obstacles imposed by some state agencies on the FIA's ability to fully discharge its role as plaintiff in administrative summary proceedings still exist, together with other barriers to its requests for documents or information lodged with certain state offices, which hampers the successful progress of many of the investigations pursued by the Prosecutor's office. Among other examples, mention must be made of the fiscal confidentiality argued by the AFIP [Federal Administration of Public Revenue] against the office, which currently represents an insurmountable barrier to the successful pursuit of investigations into net worths."

[37] "Essentially, those obstacles arise from an incorrect interpretation made by the Administration of the provisions of the Regulations for Administrative Investigations (RIA), adopted by Decree 467/99, and of the Organic Law of the Public Prosecution Service (LOMP, Law No. 24946), based on the opinion of the National Treasury Oversight Office (Ruling 190/99). This has given rise to a large number of administrative remedies filed by the FIA in those cases in which, using that interpretation, the competence of the agency to act as plaintiff in administrative summary proceedings originating elsewhere other than a prior investigation by the agency has been overruled."

[38] During the on-site visit, the FIA's Prosecutor General spoke of the discrepancies in the scope of the FIA's powers, and of different rulings handed down by the nation's courts and appeals filed by the FIA regarding this point,¹⁸ and it stated that on account of interpretations such as the one set out in Ruling 190/99 of the National Treasury Oversight Office,¹⁹ and because an appeal filed by the FIA against a decision restricting its powers adopted by a court was still pending resolution, it was still necessary to define the scope of its authority. The Attorney General of the Nation spoke of the need for legislative clarification of the FIA's powers. In addition, a National Deputy referenced the

14. Argentina's response to the questionnaire with respect to oversight bodies, pp. 105 and 106.

15. Res. PGN 147/08, available at (<http://www.mpf.gov.ar/resoluciones/PGN/2008/PGN-0147-2008-001.pdf>); Res. PGN 133/09, available at <http://www.mpf.gov.ar/resoluciones/PGN/2009/PGN-0133-2009-001.pdf>; and Res. PGN 38/12, available at <http://www.mpf.gov.ar/resoluciones/PGN/2012/PGN-0038-2012-001.pdf>.

16. Available at: <http://www.csjn.gov.ar/jurisp/jsp/fallos.do?usecase=mostrarDocumento&falloId=5893>.

17. Page 471 of the FIA 2011's Annual Report, contained on pp. 467 to 474 of the Report of the Public Prosecution Service – Office of the Attorney General of the Nation for that year, referred to on p. 103 of Argentina's response on oversight bodies, available at http://www.mpf.gov.ar/Accesos/InformeAnual/informeannual2011/informe_anual_2011.html.

18. The FIA presented various judgments handed down by the judiciary of the nation and remedies filed by the FIA, which may be seen on the MESICIC website, in the section dealing with Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

19. Available at: http://www.oas.org/juridico/PDFs/mesicic4_arg_fia.pdf

problems caused by the restrictive interpretations of its powers that arise from the lack of clarity in the LOMP, as a result of which in 2006, when he was serving as the FNIA, he presented to the PGN a proposal to amend the LOMP. This proposal was later placed before Congress by a Deputy but it was never discussed.²⁰

[39] Regarding these points, it should be noted that the report prepared by the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” and presented by the “Inter-American Bar Association,”²¹ states that by means of PGN Resolution No. 21/2012 of April 17, 2012, the Ministry of Justice of the Nation was sent “a bill proposing various amendments to the Organic Prosecution Service Law No. 24946, to equip the FIA with appropriate tools for ensuring the effectiveness of its investigations.”²²

[40] Second, bearing in mind that the information collected during the on-site visit indicates a need for strengthened interinstitutional coordination between the FIA and the other oversight bodies with which it works in pursuit of its functions, and among the FIA’s prosecutors and the Public Prosecution Service’s other prosecutors, the Committee believes it would be useful for the country under review consider taking the appropriate measures toward that end, such as establishing through norms the coordination that is appropriate for each case (see recommendation 1.4.2 in Chapter II of this report).

[41] In connection with this, the Committee notes the importance of strengthening the relevant coordination, bearing in mind the powers of assistance that the FIA’s prosecutors have with administrative authorities that bring disciplinary action in administrative summary proceedings and to attend and assist prosecutors in judicial proceedings against public officials, as set out in Articles 44 and 45 of Resolution PGN No. 18/05, respectively, together with the FIA’s power to appear alongside the Anticorruption Office, with respect to Articles 26, 45, and 50 of the LOMP, and the FIA’s relations with the country’s judicial branch.

[42] During the on-site visit, the Attorney General of the Nation stated that given that a large number of agencies are empowered to conduct investigations, this makes coordination difficult. A National Deputy also spoke of the existence of coordination problems between the FIA’s prosecutors and other prosecutors and authorities.

[43] Regarding these points, it should be noted that the report prepared by the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” and presented by the “Inter-American Bar Association”²³ states that: “The Commission points out that no standardized procedures for collaboration, cooperation, or teamwork between the oversight bodies analyzed in this report are being implemented, which would indicate that a foundation has not been set for effective and efficient coordination between the Public Prosecution Service and the other offices and agencies of the Argentine Republic.”

20. The same National Deputy submitted a copy of the proposal, along with other documents, including one that addressed the oversight bodies, among them the FIA. These may be found on the MESICIC web site, in the section dealing with Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

21. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 36.

22. The resolution and the bill can be seen on the web site of the Public Prosecution Service, at <http://www.mpf.gov.ar/resoluciones/PGN/2012/PGN-0021-2012-001.pdf>.

23. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 26.

[44] Third, bearing in mind that the information collected during the on-site visit indicates that it would be advantageous for the Public Prosecution Service and the FIA to be organized according to the specialties of their prosecutors and not according to the legal offices before which they appear, which deal with very different areas, the Committee believes it would be useful for the country under review to consider taking the appropriate steps toward that goal (see recommendation 1.4.3 in Chapter II of this report).

[45] During the on-site visit, the Attorney General of the Nation spoke of the usefulness of adopting such an organizational scheme.

[46] In connection with this, it should also be noted that on January 21, 2013, the Argentine Republic submitted information on policies introduced recently by the Office of the Attorney General of the Nation to step up and improve its efforts against crimes related to money laundering and the funding of terrorism; economic and banking fraud; the money market; tax offenses and contraband; crimes against the public administration; and tendering and bankruptcies. Thus, by means of resolution PGN No. 914/12 of December 20, 2012, the Office of the Prosecutor for Economic Crimes and Money Laundering was created. This new institutional structure comprises a team of specialized prosecutors and officers who will coordinate in various Operational Areas: “Money laundering and funding of terrorism,” “Economic and banking fraud,” “Money market,” “Tax offenses and contraband,” “Crimes against the public administration,” and “Tendering and bankruptcies.” Together with these Operational Areas, there will also be Technical Assistance areas, comprising of a “Team of investigators,” a “Technical consultancy service,” “Assets recovery” and “Computer support.”²⁴

[47] Regarding these points, it should be noted that in the report prepared by the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” and presented by the “Inter-American Bar Association,”²⁵ the following comment is offered: “Another issue that should be considered is the way in which the Public Prosecution Service is organized, and the problem that poses to the prosecution of corrupt acts. The Public Prosecution Service is not organized according to the thematic specialties of its prosecutors; instead, one prosecutor’s office is assigned to each court.”

[48] Fourth, the Committee believes it necessary for the country under review to consider establishing the Bicameral Commission provided for in Article 23 of the LOMP, with its composition and functions to be set by both houses of Congress, and to which, according to Article 32 of the Law, the PGN must submit an annual detailed report on the activities of the Public Prosecution Service, to which the FIA belongs, containing an evaluation of the work performed during that period, an analysis of the efficiency of the service, and concrete suggestions on improvements and modifications needed (see recommendation 1.4.4 in Chapter II of this report).

[49] During the on-site visit, a National Deputy stated that more than 10 years after the enactment of the LOMP, the aforesaid Commission had not been established, and that he had submitted a bill to Congress on the matter which, although it had a preferential motion for discussion, has not yet been debated.

24. Note that in the whereas clauses of this resolution, (item II, third paragraph), the Inter-American Convention against Corruption is referenced as one of the international instruments on which the initiative is based.

25. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 32.

[50] In connection with this, it should be noted that in the report presented by the “Forum for Studies on the Administration of Justice” (FORES)²⁶ the following comment is offered: “Regarding the independence of the Public Prosecution Service, it has been said that at present there is no real control over the actions of the Attorney General, since the Bicameral Congressional Commission provided for in Law 24946 has not been established.”

[51] Fifth, the Committee believes it would be useful for the country under review to consider taking the appropriate steps to speed up the appointment of the National Prosecutor for Administrative Investigations (FNIA), since the position has been held on an interim basis for more than three years; the same applies to one of the two General Prosecutor positions and to four of the nine positions of Prosecutor for Administrative Investigations which, according to the FIA’s organizational chart furnished in the response²⁷ and published on the FIA web site, are currently vacant (see recommendation 1.4.5 in Chapter II of this report).

[52] During the on-site visit, the Attorney General of the Nation stated that the interim appointments and vacancies were due to the fact that the competitions to fill those posts were an ongoing, complex process, but that the interim appointees enjoyed autonomy in discharging their duties. Also during the visit, a National Deputy said that the selection procedure for the National Prosecutor was a guarantee for the agency’s independence and the fact that the position of Prosecutor for Administrative Investigations had been held on an interim basis by the Prosecutor General for more than three years was an affront to that guarantee.

[53] Regarding these points, it should be noted that in the report prepared by the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” and presented by the “Inter-American Bar Association,”²⁸ the following comment is offered: “The fact that the position of National Prosecutor for Administrative Investigations and several prosecutorial positions remain unfilled until the corresponding public competitions have been completed affects the design, progress, and finalization of policies and agreements that will help improve the quality of work and cooperation among institutions. Nevertheless, the delay in finalizing the public competitions is in line with that of any public competition in Argentina.”

1.3. Results of the legal framework and/or of other measures

[54] The country’s response to the questionnaire indicates that the results obtained by the FIA may be found on its web site, <http://www.fia.gov.ar/>, and it furnishes the following information:

26. Document “Report on Federal Criminal and Correctional Justice and on Administrative Justice in the Argentine Republic,” p. 19.

27. Argentina’s response to the questionnaire on oversight bodies, p. 90.

28. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 34.

PROSECUTOR FOR ADMINISTRATIVE INVESTIGATIONS CASE FILES OPENED BY YEAR AND TYPE PERIOD 2006 – 2011					
	Oct. 2006 Sep. 2007	Oct. 2007 Sep. 2008	Oct. 2008 Sep. 2009	Oct. 2009 Sep. 2010	Oct. 2010 Sep. 2011
By communication of criminal case	106	74	37	52	40
By communication of summary proceedings	814	835	745	640	632
Criminal complaints	413	261	176	152	129
Grand total	1333	1170	958	844	801
<i>(Institutional Development Area – April 2011)</i>					

[55] First, given that this statistical chart indicates a constant decline in the case files opened by the FIA between October 2006 and September 2011 – falling from a total of 1333 between October 2006 and September 2007 to a total of 801 between October 2010 and September 2011 – the Committee believes it would be useful for the country under review to consider analyzing the causes for that decline in order to identify challenges and recommend corrective measures (see recommendation 1.4.6 in Chapter II of this report).

[56] In connection with this, it should be noted that during the on-site visit, the FIA’s Prosecutor General stated that the decline in actions reflected in the statistics could be due to the difficulties, already referred to, that the FIA has met in discharging its functions.

[57] Second, bearing in mind that neither the FIA’s annual reports for 2006 to 2010 as published on its web page, nor the 2011 report furnished with the response to the questionnaire provide information related to its investigations on important aspects, such as how many have been suspended, prescribed because the statute of limitations expired, or closed, the Committee will make a recommendation to the country under review in that regard (see recommendation 1.4.7 in Chapter II of this report).

[58] Third, the Committee notes that Article 43 of Resolution No. 18/05 indicates the information about its activities that the FIA is to furnish annually to the PGN, which is included in the PGN’s Annual Report, and that although the “Annual Report – October 2007 to October 2008” contains a section on “Management Statistics,” with extensive information on the matter, that section does not appear in the later reports. For that reason, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 1.4.8 in Chapter II of this report).

[59] In connection with this, it should be noted that during the on-site visit, the Attorney General of the Nation spoke of the importance of statistics and said that she had recently reminded the prosecutors of that fact, and a National Deputy to the Congress said that although the FIA publishes information on its web site, the amount is less than what was published a few years ago.

[60] Fourth, bearing in mind that resolution PGN 914/12 created the Office of the Prosecutor for Economic Crimes and Money Laundering and assigned its operational areas functions including the preparation of a database of the proceedings in question, in order to detect common patterns to anticipate areas of institutional risk and guide other investigations, and that such a database has not yet been established and would be of use to the FIA, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 1.4.9 in Chapter II of this report).

1.4. Conclusions and recommendations

[61] Based on the comprehensive review conducted with respect to the Prosecutor for Administrative Investigations (FIA) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[62] Argentina has considered and adopted measures intended to maintain and strengthen the office of the Prosecutor for Administrative Investigations as an oversight body, as described in Chapter II, Section 1 of this report.

[63] 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 the possibility of specifying, in a legal provision, the functions established for the FIA in the LOMP, so that it can have the powers necessary to obtain, on a timely basis, the information it requires to prepare its investigations and to ensure that its intervention in administrative summary proceedings and in the criminal cases brought for administrative irregularities and acts of corruption committed by employees of the National Administration is timely and effective and is not hindered by the various different interpretations that exist regarding the scope of its powers (see section 1.2 of Chapter II of this report).
- 1.4.2 Strengthen interinstitutional coordination between the FIA and the other oversight bodies with which it works in pursuit of its functions, and among the FIA's prosecutors and the Public Prosecution Service's other prosecutors, taking the appropriate steps toward that end, such as identifying through regulations the coordination that is applicable in each case (see section 1.2 of Chapter II of this report).
- 1.4.3 Organize the Public Prosecution Service and the FIA according to the specialties of their prosecutors (see section 1.2 of Chapter II of this report).
- 1.4.4 Establish the Bicameral Commission provided for in Article 23 of the LOMP, with its composition and functions to be set by both houses of Congress, and to which, according to Article 32 of the Law, the PGN must submit an annual detailed report on the activities of the Public Prosecution Service, to which the FIA belongs (see section 1.2 of Chapter II of this report).
- 1.4.5 Take the appropriate steps to speed up the appointment of the National Prosecutor for Administrative Investigations (FNIA), since the position is currently held on an interim basis, and to fill the FIA's prosecutorial positions that are vacant (see section 1.3 of Chapter II of this report).
- 1.4.6 Conduct an analysis of the possible causes for the constant decline in the case files opened within the FIA, in order to identify challenges and recommend corrective measures (see section 1.3 of Chapter II of this report).
- 1.4.7 Prepare compiled statistical data on the investigations opened by the FIA, indicating how many have been suspended, how many have been prescribed under statutory limitations, how many have been closed, how many are in process, and

how many have been referred to the competent area for resolution, in order to identify challenges and recommend corrective measures (see section 1.3 of Chapter II of this report).

- 1.4.8 Prepare the information that the FIA is to furnish annually to the PGN on its activities as provided for in Article 43 of Resolution No. 18/05 (see section 1.3 of Chapter II of this report).
- 1.4.9 Develop the database to be established pursuant to resolution PGN 914/12, which created the Office of the Prosecutor for Economic Crimes and Money Laundering and its operational areas within the PGN, in order to identify areas of institutional risk and guide investigations (see section 1.3 of Chapter II of this report).

2. JUDICIAL BRANCH OF THE NATION (PJN)

2.1. Existence of provisions in the legal framework and/or other measures

[64] The Judicial Branch of the Nation (PJN) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[65] Under Article 108 of the National Constitution, “the nation’s judicial branch of government shall be comprised of the Supreme Court of Justice and such lower courts as established by Congress in the territory of the nation.”

[66] Regarding the functions of the PJN, under Article 116 of the National Constitution, “the Supreme Court and the lower courts of the nation shall be responsible for hearing and deciding all cases relating to matters governed by the Constitution and by the laws of the nation, with the reservation expressed in section 12 of Article 75, and by treaties with foreign nations; cases involving foreign ambassadors, public ministers, and consuls; cases involving the admiralty and maritime law; matters in which the nation is a party; cases arising between two or more provinces; between a province and the inhabitants of another; between the inhabitants of different provinces; and between a province or its inhabitants and a foreign state or citizen.”²⁹

[67] According to the response to the questionnaire³⁰ and the explanations given during the on-site visit, crimes involving the acts of corruption covered by the Inter-American Convention against Corruption come under the jurisdiction of the Federal Criminal and Correctional Courts, which, in addition to the Supreme Court of Justice of the Nation, basically comprises of the National Criminal Cassation Chamber, the National Federal Criminal and Correctional Appeals Chamber, the Federal First-instance Criminal and Correctional Courts, and the Federal Criminal Oral Courts.³¹

29. Pursuant to Article 117 of the National Constitution, “in these cases, the Supreme Court shall exercise its appellate jurisdiction according to the rules and exceptions set by Congress; but in all matters involving foreign ambassadors, ministers, and consuls, and matters in which a province is involved, it shall have original single-instance jurisdiction.”

30. Argentina’s response to the questionnaire with respect to oversight bodies (pp. 71 to 74) refers to jurisprudence and doctrine to explain the areas of competence of the federal justice system and the provincial justice system, and reference is also made to the powers granted to judges in Article 33 of Law No. 48 (Jurisdiction and Competence of Domestic Courts) and Article 33 of the Code of Criminal Procedure of the Nation (CPPN).

31. An interactive map with a complete guide to the federal courts across the territory of the Argentine Republic may be found on the web site of the Supreme Court of Justice of the Nation, at <http://www.csjn.gov.ar/dbei/ii/cf/mapa.html>.

[68] Article 33 of the Code of Criminal Procedure of the Nation (CPPN) provides that federal judges shall be responsible for committal proceedings for the offenses listed in that article, including: “(c) those committed in the territory of the Capital or of the provinces, in breach of domestic law, including those that attack the sovereignty and security of the nation or that seek to defraud it of its revenue or hinder or corrupt the good service of its employees (...)”; Article 194 states that investigating judges must proceed directly and immediately to investigate facts committed in their judicial districts, without prejudice to the terms of Article 196; and this article also states that investigating judges may decide that the direction of investigations into publicly actionable criminal offenses³² shall be assigned to the prosecutor. Article 26 of Law 24050³³ provides that the National Federal Criminal and Correctional Courts of the Capital shall hear the circumstances described in the aforesaid Article 33 of the CPPN, and Article 27 assigns competence in connection with that article to the federal criminal and correctional courts headquartered in the provinces. The CPPN also contains provisions on committal hearings, trials, appeals against judicial rulings, and their execution.

[69] According to the terms of Article 99(4) of the National Constitution, the President of the Republic appoints the justices of the Supreme Court, with the assent of two thirds of the members of the Senate in attendance, at a public session,³⁴ and other judges of the lower federal courts are appointed from a binding shortlist of three names proposed by the Magistrate Council, with the assent of the Senate, at a public session, taking into account the suitability of the candidates. Article 13 of Law 24937 provides that the shortlist of three names shall be prepared on the basis of public competitions and a candidate’s background.³⁵ Article 110 of the National Constitution further provides that those public officials shall preserve their positions for as long they maintain good conduct. Justices of the Supreme Court may only be removed through impeachment proceedings,³⁶ and, under Article 115 of the National Constitution, the judges of the nation’s lower courts shall be removed for the grounds set out in Article 53, by an impeachment jury comprising of lawmakers, judges, and federally registered lawyers. The appointment requirements for members of the Supreme Court of Justice are set out in Article 111 of the Constitution, while those for judges of lower federal courts are set out in Articles 5 and 6 of Decree-Law 1285/58,³⁷ which also refers to their incompatibilities (Articles 8 and 9).

[70] Regarding the way in which human resources are decided, the regime applicable to them, and internal oversight, Article 113 of the Constitution states that the Supreme Court shall adopt its internal regulations and appoint its employees, and Decree-Law 1285/58 states that the Supreme Court is responsible for regulating all the PJN’s administrative issues, including the hiring of

32. These include the crimes against the public administration defined in the Criminal Code of the Nation (CPN), Articles 256 to 261, 265 to 268, and 277, related to the acts of corruption covered by the Inter-American Convention against Corruption. Also, Article 23 of the CPN provides that in all cases in which convictions are handed down for offenses covered in that Code or in special laws, the sentence shall also rule on the forfeiture to the State, provinces, or municipalities of assets used to commit the crime and the property or earnings produced or provided by the offense.

33. This law defines the competence to the different judicial venues and may be found at <http://infoleg.mecon.gov.ar/infolegInternet/anexos/0-4999/449/texact.htm>.

34. The procedure for the appointment of Supreme Court justices is governed by Decree 222/03, which may be seen at <http://infoleg.mecon.gov.ar/infolegInternet/anexos/85000-89999/86247/norma.htm>.

35. The Magistrate Council’s Resolution No. 614/09, containing the Regulations for Public Competitions for the appointment of judges of the nation’s judicial branch, may be found at <http://www.pjn.gov.ar/Publicaciones/00016/00040864.Pdf>. The Magistrate Council’s Resolution No. 36/11, amending the above Regulations, may be found at <http://infoleg.mecon.gov.ar/infolegInternet/anexos/180000-184999/182515/norma.htm>.

36. The grounds for their impeachment are established in Article 53 of the National Constitution, to wit: poor performance, crime in the exercise of duty, and common crimes. Impeachments are conducted by the Chamber of Deputies (acting as the plaintiff) and by the Senate (acting as the judge).

37. Available at <http://infoleg.mecon.gov.ar/infolegInternet/anexos/35000-39999/37915/texact.htm>.

personnel to serve in its different courts and tribunals that make up the judicial branch.³⁸ In accordance with its powers, the Supreme Court, by means of an Agreement dated December 17, 1952, enacted the National Justice Regulations,³⁹ which sets out the obligations of the PJN's judges, officers, and employees (Article 8); the requirements for the appointment of officers and employees (Article 11); the procedure for those appointments (Article 13); and the application of sanctions, including the competent authorities for their imposition (Articles 21, 22, and 23). Article 114 of the Constitution further provides that the Magistrate Council shall be responsible for disciplinary authority over judges.

[71] Regarding its budgetary and technological resources and institutional strengthening, Article 114 of the Constitution indicates that the functions of the Magistrate Council shall include managing the resources and executing the budget assigned by law to the administration of justice, and the response to the questionnaire⁴⁰ refers to the Judicial Management Computer System, which is provided for in the "Institutional Strengthening Plan of the Judiciary of the Argentine Nation," which, as reported during the on-site visit, is currently being implemented.

[72] Regarding the description of functions and the existence of manuals or documented procedures for discharging them, and regarding personnel training, the following are in place: the aforesaid National Justice Regulations; the Rules of Procedure of the Corps of Auditors of the Judiciary of the Nation;⁴¹ the Instructions for Electronic Notifications;⁴² Agreement 1-12 of the Federal Criminal Cassation Chamber, on practical rules for complex cases; and Agreement 3-12 of the same Chamber, on recourses for the nonenforcement of law and disclosure of acts of government.⁴³ For training, there is the Judicial School, created by Law 24937, under the aegis of the PJN's Magistrate Council, the task of which is to provide training and refresher courses for judges, officers, employees, and aspiring magistrates.

[73] For providing the public with information and establishing communications with them, the PJN has its web page at <http://www.pjn.gov.ar/>, which contains information on such matters as judicial venues, cases, jurisprudence, and rulings; and the Magistrate Council has its web page at <http://www.consejomagistratura.gov.ar>, which contains information on such matters as its duties in the general management of the PJN and in the selection of judges. The Supreme Court of Justice also has the Judicial Information Center, which is responsible for informing the public about the PJN, and offers various electronic links, including one to "Open Government" (<http://www.cij.gov.ar/gobiernoabierto/>), which also offers digital tools (including social networks, such as Facebook and Twitter) for communicating queries, suggestions, and opinions to the different areas involved in the provision of judicial services.

[74] Regarding support for discharging its duties from other authorities or agencies, the Code of Criminal Procedure of the Nation (CPPN) covers the actions of the Judicial Police and the security forces, together with those of experts (Book II, Title I, Chapters I and II, respectively).

38. Those powers were partially modified by the constitutional amendment of 1994, with the creation of the Magistrate Council, which, pursuant to Article 114 of the Constitution, is responsible for the selection of judges and the administration of the PJN.

39. Available at <http://infoleg.mecon.gov.ar/infolegInternet/anexos/165000-169999/167638/norma.htm>.

40. Argentina's response to the questionnaire with respect to oversight bodies, Annex "Institutional Strengthening Plan of the Judiciary of the Argentine Nation."

41. Available in the annexes to Argentina's response to the questionnaire with respect to oversight bodies.

42. Available at <http://www.csjn.gov.ar/servicios.html>.

43. Those Agreements are available at http://www.oas.org/juridico/pdfs/mesicic4_arg_reglas.pdf and http://www.oas.org/juridico/pdfs/mesicic4_arg_ple.pdf, respectively.

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

[75] The Judiciary of the Nation (PJN) has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 2.1 of this report. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[76] First, bearing in mind that the information gathered during the on-site visit indicates that it would be useful for the country under review to consider the possibility of completely converting its federal criminal judicial system to an adversarial one, the Committee will formulate a recommendation in that regard (see recommendation 2.4.1 in Chapter II of this report).

[77] In connection with this, it should be noted that, first, under Articles 194 and 196 of the Code of Criminal Procedure of the Nation (CPPN), investigating judges may pursue their investigations directly or may delegate that authority to a prosecutor, and, second, that the Public Prosecution Service has prosecutors who, in such a situation, can pursue those investigations and, in addition, an office of the Prosecutor for Administrative Investigations (FIA) which, in turn, has prosecutors who specialize in acts of corruption and who may also pursue such investigations, in the situations covered by Article 45 of the Organic Law of the Public Prosecution Service (LOMP) and in the way described in Article 45 of Resolution PGN No. 18/05 (Internal Regulations of the FIA). The result is a model in which many different authorities are empowered to investigate such offenses.

[78] During the on-site visit, the Attorney General of the Nation said that the existence of multiple actors pursuing investigations made coordination difficult and that one solution could be to move toward an adversarial system, which would require the support of the legislative branch. The Judge of the 4th Federal Criminal and Correctional Court further explained that although judges have the power to delegate the investigation to a prosecutor, they generally conduct investigations themselves because they have more of the resources needed than an officer of the Public Prosecution Service. Moreover, the FIA's prosecutors are restricted in their functions because the judicial system in Argentina is inquisitorial and a reform of the procedures is needed to evolve toward a comprehensive adversarial system. He also presented a document "General Diagnostic Assessment,"⁴⁴ which reports that in August 2012 a petition was submitted to the Ministry of Justice and the Criminal Law Committee of the federal Chamber of Deputies, signed by more than 200 national and federal judges from the country's different provinces, asking the legislature to discuss the criminal reform bills currently with the Congress, "to transform the current Code of Criminal Procedure toward an adversarial system."

[79] Also during the on-site visit, the First Vice President of the National Criminal and Correctional Appeals Chamber of the Federal Capital said that Argentina has a mixed judiciary, in that although prosecutors have investigative powers, judges are also authorized to investigate and that these powers overlap and ultimately hinder proceedings. He said that their jurisdictions would have to be clarified in law or the adversarial system would have to be adopted, so that only the Public Prosecution Service would have the authority to conduct investigations. In turn, the Vice President of the Federal Criminal Cassation Chamber (Chamber IV) explained that there was no legal provision regarding exclusive competence and that, for that reason, coordinating these competences was difficult, bringing problems for both the prosecution and the defense.

44. Page 9 of this document available at http://www.oas.org/juridico/pdfs/pgn_diagnostico_general.pdf.

[80] Second, bearing in mind that the information gathered during the on-site visit indicates that one pending task is the creation of a new National Criminal Cassation Chamber for regular matters, which would reduce the backlog at the current Federal Criminal Cassation Chamber, which hears corruption cases, and that this would speed up the processing of such cases, the Committee believes it would be useful for the country under review to consider creating that Chamber and, consequently, will formulate a recommendation in that regard (see recommendation 2.4.2 in Chapter II of this report).

[81] In connection with this, it should be noted that, during the on-site visit, the Vice President of the Federal Criminal Cassation Chamber (Chamber IV) spoke of the need to expedite the establishment of the new National Criminal Cassation Chamber for ordinary jurisdiction, since that would greatly reduce the workload of the current Federal Criminal Cassation Chamber, enabling it to work only on matters of federal jurisdiction (which includes corruption cases); he also furnished statistics indicating that between February and August 2012, 57.26% of the Federal Chamber's cases were federal and 42.74% were of regular matters (these latter cases would be transferred to the new chamber).

[82] In connection with this, it should also be noted that the report presented by the "Forum for Studies on the Administration of Justice,"⁴⁵ the following comment is offered: "a few years ago a law was passed creating a new cassation chamber to specifically deal with ordinary criminal matters, leaving the existing one as a federal cassation chamber. However, the judges of the new chamber have not been appointed, and to date the chamber is lacking in all material and functional structures."

[83] Third, bearing in mind that the information gathered during the on-site visit indicates that there are delays in appointing federal judges by means of the procedure set forth in Article 99(4) of the Constitution, and that a significant number have been appointed on a temporary, interim basis, the Committee believes it would be useful for the country under review to consider taking the appropriate steps to speed up the filling of those positions in accordance with the procedure provided in the aforesaid constitutional provision. As such, it will formulate a recommendation in that regard (see recommendation 2.4.3 in Chapter II of this report).

[84] In connection with this, it should be noted that during the on-site visit, the Judge of the 4th Federal Criminal and Correctional Court said there were difficulties in the functioning of the mechanisms for appointing judges, and that was being discussed publicly; similarly, the Vice President of the Federal Criminal Cassation Chamber (Chamber IV) indicated that competitions to appoint judges took a great deal of time and that the various state agencies involved in the selection process were responsible for the delays.

[85] On this point it should also be noted that during the on-site visit, the civil society organization "Civil Association for Equality and Justice" stated that in the nation's judiciary, a third of the judges had been appointed on an interim basis – in other words, not definitively through the regular established procedures – and that there were cases of delays of up to five years in appointing judges.

[86] Fourth, bearing in mind that the information gathered during the on-site visit indicates that it would be beneficial for the country under review to consider taking appropriate steps to facilitate its federal judges and prosecutors access to the information contained in the Public Commerce Registers, such as the creation of a database with that information or the establishment of access links to those

45. Document "Report on Federal Criminal and Correctional Justice and on Administrative Justice in the Argentine Republic," p. 57.

Registers, the Committee will formulate a recommendation in that regard (see recommendation 2.4.4 in Chapter II of this report).

[87] In connection with this, it should be noted that during the on-site visit, when it was said that the document of the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” presented by the civil society organization “Inter-American Bar Association”, titled “Sixth Report,”⁴⁶ spoke of difficulties faced by judges and prosecutors in obtaining information on companies from the Public Commerce Registers – for instance, the composition of their boards, shareholders, and owners – on the grounds that those registers operate under provincial jurisdiction and there is no National Register, the Vice President of the National Criminal Cassation Chamber (Chamber IV) explained that this was due to the federal nature of the Argentine Republic and that the situation could be improved by setting up a database with the information contained in those records or by establishing links to them.⁴⁷

[88] Fifth, bearing in mind that the information gathered during the on-site visit indicates that it would be useful for the country under review to consider the possibility of strengthening the available mechanisms to ensure that federal judges have increased support personnel available in complex cases in which they investigate and prosecute acts of corruption, the Committee will formulate a recommendation in that regard (see recommendation 2.4.5 in Chapter II of this report).

[89] In connection with this, it should be noted that during the on-site visit, the Judge of the 4th Federal Criminal and Correctional Court identified, as one difficulty, the lack of flexibility in the management of the PJN’s human resources, which prevented it from calling on additional personnel when dealing with complex cases.⁴⁸

46. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 81.

47. On February 8, 2013, the country under review offered the following remarks: “... for the timely, centralized, and easy access that judges must have to information in registers (vehicles and real estate registries, and Public Commerce Registers), the country has centralized information on motor vehicles, aircraft, and boats and ships through, for example, the National Directorate of Automobile Ownership and Secured Loans (<http://www.dnrpa.gov.ar/>), the National Aeronavigation Directorate (<http://www.dna.org.ar>), and the Naval Prefecture of Argentina (<http://www.prefectura naval.gov.ar/institucional/castellano/mision4.php>).” – “For property information, the Ministry of Justice and Human Rights has promoted the National Information System on Real-estate Registers (SINAREPI). This system was created by Decree PEN No. 1228/99 of 26/10/1999, with the main goal of coordinating, with the Directorates of Real-estate Registries of the provinces and with the General Directorate of the Real-estate Registry of the Federal Capital, the administration of the real-estate data stored in those registries, in order to provide information on the ownership and legal status of such property, any disqualifications of the owners, and any other details requested by individuals or corporate bodies with a proven legitimate interest. The system was devised as a way to interconnect all the country’s real-estate registries, managing disparate information in a centralized way from any registry belonging to any jurisdiction. Similarly, for information on the ownership and management of corporate entities, Law 26047 (B.O. 3/08/2005) regulated the operations of the National Register of Stock Companies. This new system, which is being implemented by the Ministry of Justice’s General Inspectorate of Justice, seeks to centralize the information held in the public commerce registers of all the local jurisdictions.”

48. On February 8, 2013, the country under review offered the following remarks: “...at present, in addition to access to and progress in the judicial career through the regular institutional paths, the Supreme Court of the Nation has powers that enable it to authorize lower courts to hire officers or agents on a temporary, ad-hoc basis, to deal with extraordinary needs arising from, for example, the need to process complex cases. The web site of the Supreme Court of Justice of the Nation (http://www.csjn.gov.ar/docus/documentos/cons_tema.jsp?temaID=K14) contains, in an accessible and itemized format, all the resolutions and agreements issued by the SCJ in connection with the granting, renewal, and amendment of special hirings of this kind.”

2.3. Results of the legal framework and/or of other measures

[90] In the country's response to the questionnaire, information is provided in a section containing a statistical appendix on the number of cases opened and processed by various judicial venues in the country's federal legal system in connection with offenses contained in the Criminal Code of the Nation related to the acts of corruption contained in the Inter-American Convention against Corruption between the years 2006 and 2011. That appendix indicates the number of cases involving each of those offenses that was opened in each of those years, for a total of 32,436 over the entire period. In addition, during the on-site visit, the Federal Criminal Cassation Chamber provided statistical data on the total number of cases admitted and resolutions issued between 2000 and 2012.

[91] First of all, the Committee believes that this information indicates that the country under review has undertaken judicial proceedings in connection with the offenses criminalized in the Criminal Code of the Nation related to the acts of corruption covered by the Inter-American Convention against Corruption, but since the information is not broken down in such a way as to indicate how many cases are ongoing, suspended, prescribed because the statute of limitations expired, closed without a decision having been taken, ready for a decision to be adopted, or already covered by a decision on the merits with an acquittal or conviction, the Committee will formulate a recommendation in that regard (see recommendation 2.4.6 in Chapter II of this report).

[92] In connection with this, it should be noted that during the on-site visit, Argentina's lead expert to the Committee of Experts explained the efforts made to collect and provide information, and the Vice President of the Magistrate Council of the Nation said there were plans to establish a statistical database using standardized criteria for the whole of the Ibero-American region, and that progress was being made and the topic was to be addressed at the Ibero-American Judicial Summit in 2014.

[93] In the country's response to the questionnaire,⁴⁹ in addition to the information provided in the aforesaid statistical appendix, reference is made to general statistics from the country's judiciary, which may be consulted at http://www.pjn.gov.ar/07_estadisticas/.

[94] Second, an examination of the relevant information at this electronic link indicates a number of statistical charts covering the years 2007 to 2010, each identified as "Table 9.II.c" and titled "Federal Criminal and Correctional Jurisdiction – National Federal Criminal and Correctional Courts – Processing of Case Files." These indicate that in crimes against the public administration, including those criminalized by the Criminal Code of the Nation and related to the acts of corruption covered by the Inter-American Convention against Corruption, statutory limitations led to the closure of 18 cases in the year 2007, 15 in 2008, 12 in 2009, and 18 in 2010, for a total of 63 cases closed because the statute of limitations expired during those four years. It can also be seen that in the year 2007, no convictions or acquittals were handed down, in 2008 one acquittal was ordered, and in 2009 and 2010, no convictions or acquittals were issued, giving a total of one sentence during those four years.

[95] Since this statistical information indicates that the number of cases involving these offenses in which the statute of limitations expired (63 in total) is significantly higher than the number of cases that concluded with a sentence (a total of one), the Committee will formulate a recommendation for the country under review for it to consider conducting an analysis of the possible causes, with a view to adopting the relevant corrective measures (see recommendation 2.4.7 in Chapter II of this report).

49. Argentina's response to the questionnaire with respect to oversight bodies, p. 85.

[96] Third, bearing in mind that the information gathered during the on-site visit indicates the existence of delays in the proceedings of corruption cases by the federal legal system, at both the investigation stage and at trial, and that these should be carried out on a timely basis, the Committee will formulate a recommendation for the country under review to consider conducting a study of the possible causes for this, with a view to adopting the relevant corrective measures (see recommendation 2.4.8 in Chapter II of this report).

[97] In connection with this, it should be noted that during the on-site visit, the Judge of the 4th Federal Criminal and Correctional Court stated that there was a backlog, partly due to the fact that priority was given to cases involving human rights violations. As an example of those delays, he spoke of an illicit enrichment case that he referred to oral proceedings five years ago and that has not yet been brought to a conclusion. He also presented a document titled “General Diagnostic Assessment”⁵⁰ in which the following comment is offered: “different assessments point to the reduced number of cases that reach the trial stage. Thus, for example, in the non-delegated cases processed during 2011 by the federal courts, of the total number of cases admitted (22,521), during 2011 only 702 – equal to 3.11% of the total – were referred for trial (www.mpf.gov.ar/estadísticas). In addition, when they move to the oral phase, only 19% conclude with arguments, with priority being given to summary agreements or alternative solutions other than criminal proceedings when it is too late.”- “Neither does the system have the capacity to deal with complex cases involving organized crime or corruption, since different investigations have taken an average of 14 years, as a result of which statutory limitations are triggered because the reasonable time rule is breached.”

[98] In this regard, it should also be noted that in the document of the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” presented by the civil society organization “Inter-American Bar Association,” titled “Sixth Report,”⁵¹ the following comment is offered: “the number of cases in which the oral proceedings are pending is clearly increasing. The twelve courts that conduct investigations have been referring the case files, but the six oral courts are overloaded with work, and so the oral trials cannot be held.”

[99] In connection with this, it should also be stated that during the on-site visit, the Vice President of the Federal Criminal Cassation Chamber (Chamber IV) reported that amendments to that chamber’s rules of procedure that would streamline its processes were underway, and he then provided information on a number of measures adopted toward that end.⁵²

[100] Finally, in connection with all the above, it should be noted that during the on-site visit, the civil society organization “Economic Crime Prevention Research Center” spoke of delays in judicial proceedings into acts of corruption, and it presented a document titled “Judicial proceedings related to corruption”⁵³ prepared under a cooperation agreement with the PGN’s Office of Coordination and Follow-up for Crimes against the Public Administration and the civil society organization “Civil Association for Equality and Justice,” in which the following comment is offered: “From the total of 21 cases examined, it can be seen that the average duration of a case file is 137 months; in other words, more than 11 years. Although such a panorama is already alarming, the situation is even more serious since that average is made up of 21 case files, of which only 15 reached the trial stage – that

50. Page 9 of this document available at http://www.oas.org/juridico/pdfs/pgn_diagnostico_general.pdf.

51. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 79.

52. Federal Criminal Cassation Chamber Agreement 1-12, Practical rules for complex cases (http://www.oas.org/juridico/pdfs/mesicic4_arg_reglas.pdf).

53. Page 4 of this document, available at: http://www.oas.org/juridico/pdfs/mesicic4_arg_proc.pdf.

is, the period from the referral of the case to an oral court up to its conclusion, for whatever reason – and, of those 15, the vast majority (9) had not been resolved when the examination was conducted, in three, statutory limitations had been triggered because the reasonable time rule had been violated, and in only three cases have oral or abbreviated proceedings been held.”

[101] Fourth, since there is no information to indicate the number and amount of assets subject to an injunction and/or recovered for the State under the orders of the federal criminal and correctional justice system as a consequence of the investigation and criminal punishment of corruption cases, in accordance with Article 23 of the Criminal Code, the Committee will formulate a recommendation in that regard (see recommendation 2.4.9 in Chapter II of this report).⁵⁴

[102] The Committee believes that the National Register of Seized and Confiscated Assets During Criminal Proceedings – created within the Secretariat of Registers of the Ministry of Justice and Human Rights by Decree 826/20011 and intended to identify, record, assess, and locate all assets that are seized, confiscated, or affected by a precautionary measure during criminal trials – could assist in the preparation of that information.⁵⁵

[103] Regarding these points, it should be noted that the report prepared by the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” and presented by the “Inter-American Bar Association”⁵⁶ states, *inter alia*, that: “the seizure of assets as financial redress for the State is regulated by Article 23 of the Criminal Code. However, this possibility was only put into practice in two cases.”

[104] Fifth, since there is no information on disciplinary investigations opened in connection with officers of the nation’s judiciary that would indicate how many cases are ongoing, suspended, prescribed because the statute of limitations expired, closed without a decision having been made, ready for a decision to be adopted, or already covered by a decision on the merits with an acquittal or conviction, the Committee will formulate a recommendation in that regard (see recommendation 2.4.10 in Chapter II of this report).

2.4. Conclusions and recommendations

[105] Based on the comprehensive review of the Judiciary of the Nation (PJN) in the foregoing sections, the Committee offers the following conclusions and recommendations:

54. On February 8, 2013, the country under review offered the following remarks: “...it should be noted that Article 23 of the Criminal Code is a mechanism that empowers criminal judges to seize the proceeds or product of a crime on behalf of the nation. This mechanism, along with financial redress through civil channels (judicial proceedings for redress for damages caused through an illicit act) and recovery through administrative channels (as a consequence of the cancellation of administrative undertakings), is one of those available for the recovery of assets of illicit origin (These possibilities were analyzed and discussed in the Anticorruption Office’s 2010 publication “Recovery of Assets in Corruption Cases: Seizures of the Proceeds of Crime – Current State of Affairs,” available at <http://www.anticorruccion.gov.ar/documentos/Recupero%20de%20Activos%20-%20form%20red.pdf>).

55. On February 8, 2013, the country under review offered the following remarks: “...by means of the Supreme Court of Justice’s Agreement No. 1/13 of February 5, 2013, the “General Database of Assets Seized and/or Confiscated in Criminal Cases before the National and Federal Justice Systems” was created for the purview of the judicial branch. This database is intended to record full information on all goods of any kind covered by a court decision and liable to seizure and provides for the development of a computer network system equipped with the applicable security precautions (The agreement in question is available at <http://www.cij.gov.ar/gobiernoabierto/administracion>).

56. Document “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” – “Sixth Report,” p. 79.

[106] Argentina has considered and adopted measures intended to maintain and strengthen the Judiciary of the Nation as an oversight body, as described in Chapter II, Section 1 of this report.

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

- 2.4.1 Consider the possibility of comprehensively transitioning the federal criminal judicial system to an adversarial system (see section 2.2 of Chapter II of this report).
- 2.4.2 Give priority to the establishment of the new National Criminal Cassation Chamber for ordinary jurisdiction, to reduce the backlog at the current Federal Criminal Cassation Chamber that hears corruption cases, and assign it the resources needed for it to operate (see section 2.2 of Chapter II of this report).
- 2.4.3 Take the appropriate steps to speed up the appointment of federal judges by means of the selection procedure established in Article 99.4 of the National Constitution (see section 2.2 of Chapter II of this report).
- 2.4.4 Take the appropriate steps to facilitate federal judges and prosecutors access to the information contained in the Public Commerce Registers, such as creating a database with updated information or establishing links for access to those registers (see section 2.2 of Chapter II of this report).
- 2.4.5 Strengthen the available mechanisms so that in complex cases involving the investigation and prosecution of acts of corruption, federal judges can have increased support personnel (see section 2.2 of Chapter II of this report).
- 2.4.6 Prepare broken-down statistical data on the investigations conducted by the PJN in connection with acts of corruption, indicating how many are ongoing, suspended, expired under statutory limitations, closed without a decision having been taken, ready for a decision to be adopted, or already covered by a decision on the merits with an acquittal or conviction, in order to identify challenges and recommend corrective measures (see section 2.3 of Chapter II of this report).
- 2.4.7 Conduct an analysis into the possible reasons why, at the National Federal Criminal and Correctional Courts, the number of cases involving crimes against the public administration in which statutory limitations were triggered is proportionately much higher than the number of cases concluded with a judgment, as set out in the “9.II.c” statistical charts cited in section 2.3 of Chapter II of this report, in order to adopt the relevant corrective measures (see section 2.3 of Chapter II of this report).
- 2.4.8 Conduct an analysis of the possible reasons for the delays in proceedings involving the corruption cases dealt with by the federal courts, during both the investigation stage and at trial, and ensure that they are carried out in a timely fashion, in order to adopt the relevant corrective measures (see section 2.3 of Chapter II of this report).

- 2.4.9 Prepare statistical data to indicate the number and amount of the assets covered by an injunction and/or recovered for the State by the federal courts as a consequence of the criminal investigation and punishment of corruption cases, pursuant to Article 23 of the Criminal Code, in order to identify challenges and recommend corrective measures (see section 2.3 of Chapter II of this report).
- 2.4.10 Prepare statistical data on the disciplinary investigations conducted with respect to officers of the PJN, to indicate how many are ongoing, suspended, expired under statutory limitations, closed without a decision having been taken, ready for a decision to be adopted, or already covered by a decision on the merits with an dismissal or sanction, in order to identify challenges and recommend corrective measures (see section 2.3 of Chapter II of this report).

3 OFFICE OF THE AUDITOR GENERAL OF THE NATION (AGN)

3.1. Existence of provisions in the legal framework and/or other measures

[108] The Office of the Auditor General of the Nation (AGN) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[109] Regarding its objective,⁵⁷ it should be noted that under Article 116 of the Financial Administration Law (Law No. 24156), the Office of the Auditor General is an external oversight body of the national public sector, attached to the National Congress, and, pursuant to Article 85 of the National Constitution, it is responsible for overseeing the legality, management, and auditing of all activities of the centralized and decentralized public administration, whatever form of organization, and for the other functions assigned to it in law, and it shall necessarily participate in the adoption or rejection of income and expenditure accounts of public funds.

[110] Regarding the AGN's autonomy, Article 85 of the National Constitution states that this agency, charged with providing Congress with technical assistance⁵⁸ and enjoying functional autonomy, shall be set up in accordance with the law regulating its organization and operation, which shall be approved by an absolute majority of the members of each Chamber.⁵⁹

57. During the on-site visit the President of the AGN noted that although the AGN's specific function was not to fight corruption, its activities involved elements that were clearly preventive in nature and that it also assisted in detecting corruption by communicating any irregularity detected to the corresponding authorities. Page 202 of the report "Public Control in Argentina. Realities and Prospects" (2002-20012), available at www.agn.gov.ar, states that: "Whenever auditing procedures detect actions that may constitute publicly actionable offenses (for example: fraudulent administration to the detriment of the public administration, failures by civil servants to perform their duties, misappropriation of funds, etc.), the AGN refers the incident to the federal justice system. If the situation detected demands greater administrative activity for its investigation and is beyond the scope of our competence, the AGN involves the Prosecutor for Administrative Investigations or the Anticorruption Office, as appropriate." Decree 466/2007 empowers the Anticorruption Office's Investigations Directorate to analyze the information furnished by the AGN and the Inspector General of the Nation, in connection with the performance of their duties.

58. Note that Article 85 of the Constitution further states: "External oversight over the property, economic, financial, and operational aspects of the national public sector shall be a power of the legislative branch of government. The legislature's examination and opinion of the performance and general situation of the public administration shall be based on the reports of the Office of the Auditor General."

59. During the on-site visit, the President of the AGN reported that this law has not yet been enacted by Congress. The First Round Report of the MESICIC Committee of Experts (p. 12) states: "2. As for the Auditor General, Article 85 of the Constitution of 1994 provides that 'this technical assistance organ of Congress, with functional autonomy, will be structured in the manner prescribed by the law that regulates its establishment and operation, which must be approved by a majority of

[111] Regarding the scope of its functions, Article 117 of Law No. 24156 states that its competence covers the post-facto external oversight of budgetary, economic, financial, property, and legal management and ruling on the financial statements of the central administration, decentralized organs, companies, and state enterprises, public service regulatory agencies, the municipality of the city of Buenos Aires, and private entities adjudicated in privatization processes, with respect to the obligations arising from the corresponding contracts. This provision also states that post-facto external oversight of the Congress of the Nation shall be the task of the AGN, and it further provides that the Supreme Court of Justice of the Nation shall establish the nature and scope of the system instituted by the law for the nation's judiciary and that for the purposes of post-facto external oversight it shall order the intervention of the AGN, which are required to cooperate.⁶⁰

[112] Under the terms of Article 130 of Law No. 24156, all individuals employed in the offices or agencies subject to the AGN's competence shall respond for the economic harm that such offices or agencies suffer as a result of their bad faith, fault, or negligence in the exercise of their functions, provided that they are not covered by special regimes of responsibility.

[113] Regarding its functions, Article 118 of Law No. 24156 provides that its duties include overseeing compliance with the legal and regulatory provisions governing the use of state resources, once the relevant documents have been adopted; conducting audits of finances, of legality, of management, special examinations of the offices and agencies over which it has jurisdiction, and evaluations of programs, projects, and operations; auditing the agencies that execute programs and projects financed by international credit agencies; examining and issuing rulings on the financial statements of agencies of the National Administration prepared at the close of each financial year; overseeing the use of resources from public credit operations; conducting special examinations of economically significant undertakings and contracts, on its own initiative or under instructions from the Chambers of Congress or the Joint Parliamentary Committee for Account Review; and auditing and issuing opinions on the reports, financial statements, and level of compliance of plans of action and budgets of state companies and societies.

[114] For discharging and coordinating its functions, under Article 119 of Law No. 24156, the AGN may, *inter alia*, require the collaboration of all public sector entities, which are obliged to furnish all information, documents, background details, and reports related to the exercise of their functions (paragraph b),⁶¹ and it may pursue financial investigations in cases in which that applies, before communicating its conclusions to the Joint Parliamentary Committee for Account Review (section b). Under Article 30 of the Basic Rules for the Functioning of the AGN, it may agree on and coordinate

the members in both houses.' However, according to the information received, the law has still not been enacted and the entity is still governed by Law 24156 of 1992."

60. During the on-site visit, the President of the AGN explained that under this rule, the submission of the Judiciary of the Nation to the AGN's oversight was voluntary pursuant to an agreement with the Supreme Court of Justice of the Nation. The report by the President of the AGN, "Public Control in Argentina. Realities and Prospects" (2002- 2012), which may be seen at www.agn.gov.ar, also refers to an agreement between the AGN and the Magistrate Council under which the AGN is responsible for oversight of the judicial branch's spending.

61. Articles 18 and 19 of the Basic Rules for the Operation of the AGN establish the procedure to be followed when a person responsible for an audit cannot access information on account of the silence or refusal of the sector to be audited. This procedure includes insisting with the sector's authorities and, if the silence or refusal continues, reporting the situation to the auditors general, who will issue a ruling and forward it to the ranking authority of the agency in question, to the Inspector General of the Nation, and to the Joint Parliamentary Committee for Account Review. In turn, Article 1 of Provision No. 238/09 states that after forwarding the ruling provided for in Article 19 of the Basic Rules, if no information is received or if access to it is not granted within ten days of its reception by the aforesaid Committee, the AGN shall proceed to initiate judicial action in accordance with its constitutional and legal authority.

audits in conjunction with other provincial oversight bodies and enter into special agreements in the area of its competence.

[115] Regarding its composition and the way in which it adopts its decisions, according to Article 121 of Law No. 24156, the AGN shall comprise seven (7) members, each appointed as an auditor general, who shall be Argentine nationals, with university degrees in the areas of economics or law, and a proven track record of specialization in financial administration and oversight. They shall serve for periods of eight (8) years and may be reelected. Under the terms of Article 125(g) of that law, its decisions are adopted jointly, by majority vote.⁶²

[116] Under Article 85 of the National Constitution, the President of the AGN is to be appointed from a proposal made by the opposition political party with the largest number of seats in Congress. Pursuant to Article 123 of Law 24156, “the seventh auditor general shall be appointed by a joint resolution of the Presidents of the Chamber of Deputies and Senate and shall serve as the agency’s president. The agency shall serve to represent and execute the auditors’ decisions.” In accordance with Article 122 of that law, the other six auditors general shall be appointed by resolutions of the two chambers of the National Congress, with three (3) being appointed by the Senate and three (3) by the Chamber of Deputies, in consideration of the composition of each Chamber.⁶³ Under Article 124 of the law, auditors general may be removed for serious misconduct or blatant nonperformance of duties, through the procedures established for their appointment.

[117] Article 126 of Law 24156 addresses disqualifications for service as an auditor general, and Article 22 of the Basic Rules for the Operation of the AGN deals with incompatibilities and grounds for recusal.

[118] Regarding the way in which human resources are decided, the regime applicable to them, and personnel training, Article 125 of Law 24156 states that the powers of the auditors, gathered together as a College, include that of staff appointments, and the AGN’s Personnel Statute addresses hiring requirements (Article 3),⁶⁴ disqualifications (Article 4), rights, including the right to training (Article 13), duties, bans, and incompatibilities (Articles 14 to 18), the disciplinary regime, indicating sanctions and the competent authorities for their imposition (Articles 22 to 39), and the administrative career and the regime for filling vacancies (Articles 61 to 66).⁶⁵

[119] Regarding its budgetary resources, Article 21 of the Basic Rules for the Operation of the AGN states that its activities are to be financed with the following resources: (a) the contributions set annually in the General Budget of the National Administration for conducting external oversight of the agencies, organs, and jurisdictions covered by Article 117 of the Law, (b) the payments received for the provision of special services, (c) the revenues from the financial operations or sales of assets that it carries out, and (d) subsidies, donations, and any other funds assigned to it.

[120] For descriptions of functions and the existence of manuals or documented procedures for the discharging of duties, the following exist:⁶⁶ the Basic Rules for the Operation of the AGN (Res.

62. In accordance with Article 29 of the Internal Regulations of the College of Auditors General, those auditors general who vote with the minority may set out the reasons for their dissent in the document whereby the majority decision is conveyed.

63. Argentina’s response to the questionnaire with respect to oversight bodies (p. 55) states that “two by the majority and one by the minority.”

64. The requirements for each position are detailed on the staff scale (AGN Resolution No. 189/2011).

65. Competitions to fill vacancies are regulated by AGN Rules Nos. 183/09, 108/10, and 23/2011.

66. Pages 63 and 64 of Argentina’s response to the questionnaire with respect to oversight bodies identify a number of procedural rules and manuals and indicate where they may be found.

145/93), External Auditing Rules of the AGN (Res. 145/93), Basic Rules for Planning, Auditing Process Oversight Systems, and preparing Auditing Actions (Res. 77/02), Submissions to the AGN (Res. 50/04), and Procedures Manual for Management Audits of State Companies and Societies (Res. 129/94).

[121] For internal oversight, accountability, and its relations with the National Congress, the AGN has an internal auditing area with specific functions,⁶⁷ and Article 127 of Law 24156 states that oversight of the AGN's activities shall be the task of the Joint Parliamentary Committee for Account Review. Article 119(e) of that law further provides that the AGN is to present the Committee with a report on its activities prior to May 1,⁶⁸ and Article 15 of the Basic Rules for the Operation of the AGN states that it is to prepare quarterly reports in accordance with the functional requirements set in Article 118 of Law 24156 and to present them to the aforesaid Committee within the following 30 days.⁶⁹

[122] For providing the public with information and establishing communications with them for securing their support, the AGN has a web page at www.agn.gov.ar, which contains information on such topics as its regulatory provisions, its authorities, the agreements it has signed, its auditing reports, its ongoing audits, and the way in which submissions to it are to be made. Submissions are regulated by Resolution 50/04, one of the sections of which states that a "submission" shall be any document submitted or presented to the AGN by any individual or body that claims the illegality, lack of timeliness, or inappropriateness of contracts, undertakings, actions, or omissions of the agencies or bodies subject to its external oversight.⁷⁰

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

[123] The Office of the Auditor General (AGN) has a set of provisions and/or other measures that are relevant for the purposes of the Convention, some of which were succinctly described in section 3.1 of this report. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[124] First, since Congress has not yet enacted the law referred to in Article 85 of the National Constitution of 1994, which states, in connection with the AGN, that "this technical assistance organ of Congress, with functional autonomy, will be structured in the manner prescribed by the law that regulates its establishment and operation, which must be approved by a majority of the members in both houses," and that consequently, the AGN is being governed by Law 24156 of 1992, the Committee will formulate a recommendation for the country under review to consider enacting that

67. Argentina's response to the questionnaire with respect to oversight bodies, p. 62.

68. Article 12 of the Basic Rules for the Operation of the AGN state that the AGN's annual report is to be presented before May 1 of each year and shall contain the results of the integrated audits carried out, the matters of most relevance, the conclusions of its specialized studies, follow-up on the most salient points of the previous report, and any another issue indicated to it during the year by the Joint Parliamentary Committee for Account Review; it is also to contain a summary of the agency's actions.

69. Page 40 of a document presented by the President of the AGN during the on-site visit, "Constitution of the Argentine Nation" – "Separata" – "Office of the Auditor General" – "Comment on Art. 85," which he prepared, states, in connection with the AGN's reports, that "the Joint Parliamentary Committee examines them, adopts a ruling, and decides on courses of action – generally, asking the executive branch of government for explanations on the audits' findings and the courses of action taken. Frequently, the AGN's findings are cited in parliamentary debates or referenced as a source in important decisions taken by the executive branch (...)."

70. Res. 50/04 also states that the AGN's web site and the reception desks shall contain clear, easily understandable references to the competence of this body and of the other oversight bodies, on the scope given to submissions, and on the formal requirements that are to be met.

law, as provided for in the aforesaid constitutional provision (see recommendation 3.4.1 in Chapter II of this report).

[125] In connection with this, it should be noted that during the on-site visit, the President of the AGN stated that Congress has not yet enacted this law and that posed enormous difficulties for the agency. He also underscored the need for it to be enacted so that the AGN can operate as provided for in Article 85 of the National Constitution. In addition, he presented a document titled “Constitution of the Argentine Nation” – “Separata” – “Office of the Auditor General” – “Comment on Art. 85,” which he had prepared, which notes, in connection with this article, that “This constitutional instruction categorically states that Congress is obliged to enact a specific law that, like almost all the constitutional laws, requires a special majority for its passage: in this case, an absolute majority in each Chamber of Congress. It is, of course, the law to regulate its creation: in other words, the creation of the AGN, the composition and operation of which it is intended to regulate.”⁷¹ Also: “Immediately after the adoption of the 1994 amendments, much of the doctrine spoke of the need to enact the regulatory law of Art. 85 – not only to establish, in accordance with the Constitution, a regime in line with the new legal structure of the reestablished agency, but also because of the clear misalignment between many of the provisions of Law 24156 and the constitutional text.”⁷²

[126] In this regard it should also be borne in mind that the First Round Report of the MESICIC Committee of Experts on Argentina (p. 12) states that: “2. As for the Auditor General, Article 85 of the Constitution of 1994 provides that ‘this technical assistance organ of Congress, with functional autonomy, will be structured in the manner prescribed by the law that regulates its establishment and operation, which must be approved by a majority of the members in both houses.’ However, according to the information received, the law has still not been enacted and the entity is still governed by Law 24156 of 1992.” These comments were used, *inter alia*, as grounds for the recommendations on the conservation of public resources contained in Chapter III.B, section 1.2. of that report, the implementation of which will be addressed in Chapter IV of this Report.

[127] With regard to this first topic, it should also be noted that during the on-site visit, the coordinator of “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” spoke of the need to enact the law regulating Article 85 of the National Constitution, dealing with the AGN.

[128] Second, bearing in mind that the information gathered during the on-site visit indicates a need for the country under review to consider strengthening, as appropriate, interinstitutional coordination between the AGN and other oversight bodies with which it comes into contact in discharging its duties, the Committee will formulate a recommendation in that regard (see recommendation 3.4.2 in Chapter II of this report).

[129] In connection with this, it should be noted that during the on-site visit, the President of the AGN underscored the importance of coordination among the oversight bodies; one of the auditors general said that collaboration existed between the AGN and agencies such as the Inspector General of the Nation and the OA; and another said that the general perception was that proper coordination between the agencies did not exist.

71. Pages 45 and 46 of this document. Footnote No. 57 to this paragraph refers to the existence of numerous legislative bills on the matter.

72. Page 60 of this document.

[130] Regarding this second topic, it should also be noted that during the on-site visit, the coordinator of the “Follow-up Commission on Compliance with the Inter-American Convention against Corruption” spoke of the need to ensure, by means of express rules, better coordination and cooperation among the different agencies, including the AGN and the corresponding congressional committees.

[131] Third, bearing in mind that the contents of the President of the AGN’s report “Public Control in Argentina. Realities and Prospects” (2002- 2012) and the information gathered during the on-site visit indicate the need for the country under review to consider strengthening its mechanisms for asserting the responsibility of the employees of the jurisdictions and agencies subject to the AGN’s competence for economic harm to those agencies caused through their bad faith, fault, or negligence in the exercise of their functions, as provided for in Article 130 of Law 24156 of 1992, the Committee will formulate a recommendation in that regard (see recommendation 3.4.3 in Chapter II of this report).

[132] In connection with this, it should be noted that during the on-site visit, the President of the AGN stated that Law 24156 of 1992 only went half the way in that it established no effective mechanism for asserting responsibility for economic harm inflicted on the State, and he reiterated the comments made in his report “Public Control in Argentina. Realities and Prospects” (2002- 2012), pages 11 and 12 of which state that: “The Court of Accounts had ex ante powers of intervention and could, in the exercise of that function, veto an administrative action and, in the subsequent proceedings, sue the officials involved for repayment of the harm inflicted on the State (administrative responsibility proceedings) or, alternatively, prepare charges against the granting official for his responsibility over public funds when the regular accounts were presented (accounts proceedings). That power was not extended to the AGN in the legal framework.”

[133] Fourth, bearing in mind that the contents of the President of the AGN’s report “Public Control in Argentina. Realities and Prospects” (2002- 2012) and the information gathered during the on-site visit indicate the need for the country under review to consider taking the appropriate steps to ensure the AGN a more active participation in judicial proceedings that address economic harm inflicted on the State, as regards the jurisdictions and agencies subject to its competence, the Committee will formulate a recommendation in that regard (see recommendation 3.4.4 in Chapter II of this report).

[134] In connection with this, it should be noted that during the on-site visit, the President of the AGN stated that the agency cannot participate in judicial proceedings dealing with economic harm inflicted on the State, and he reiterated the comments made in his report “Public Control in Argentina. Realities and Prospects” (2002- 2012), page 12 of which states that: “Neither can the AGN be a party to trials arising from the irregularities it detects in its oversight work, because it lacks standing. It is unnecessary to explore the reasons to conclude that this is a limitation – particularly to effectiveness – in the ‘accountability’ process.”

[135] Fifth, the Committee believes that the comments made by the country under review in its response and the report of the AGN’s President, “Public Control in Argentina. Realities and Prospects” (2002- 2012), indicate the need for the country under review to consider taking the appropriate steps to ensure that the AGN has easy and timely access to the information it requires to discharge its duties, such as short deadlines for the provision of that information and sanctions for those who fail to abide by the obligation of providing it, so that it is not forced to invoke the National Congress and the agencies of the judiciary in order to secure such information. The Committee will

formulate a recommendation to the country under review in that regard (see recommendation 3.4.5 in Chapter II of this report).

[136] In connection with this, it should be noted that the country's response⁷³ says that "one considerable difficulty arises when an organ or office of the national public sector impedes access to information required by the AGN to discharge its oversight duties," and that "because of the stream of situations in which access to information is restricted by an office or agency of national public sector, and because the existing mechanisms are as yet inadequate to ensure access to the requested information, in 2009 the AGN issued Rule 238/09, complementing the procedure governed by Arts. 18 and 19 of its Basic Auditing Rules and providing for access to the competent courts to demand access to information (copy enclosed)."

[137] In addition, page 199 of the report of the President of the AGN, "Public Control in Argentina. Realities and Prospects" (2002- 2012), states that "Since the AGN's creation, the reluctance of certain offices to furnish information has been evident, hindering its oversight function...."

[138] The Committee notes that although the provisions referred to in the country's response (Articles 18 and 19 of the Basic Rules for the Operation of the AGN, and Rule 238/09) represent progress toward the goal of ensuring the AGN's timely access to the information it needs to discharge its duties, it would be useful to have such measures as deadlines for the provision of that information and sanctions for those who fail to abide by the obligation of providing it, which would serve to reduce that reluctance to provide information and make it less necessary to invoke the National Congress and the agencies of the judiciary, in accordance with the procedure set in those provisions, which could involve a considerable length of time in securing results.

[139] Sixth, bearing in mind that the report of the AGN's President, "Public Control in Argentina. Realities and Prospects" (2002- 2012), and the information gathered during the on-site visit indicate that it would be useful for the country under review to consider take the appropriate steps for the institutional strengthening of the AGN, in strategic terms and for the medium and long terms, it will formulate a recommendation in that regard (see recommendation 3.4.6 in Chapter II of this report).

[140] In connection with this, it should be noted that page 13 of the report of the AGN's President, "Public Control in Argentina. Realities and Prospects" (2002- 2012), states that "Although the AGN has not been able to make substantial progress in strategic terms or for the medium and long terms, its internal structure has been adapting to the paradigms and challenges of global development, like the main oversight bodies of the western world"; also, during the on-site visit, the AGN's Manager for Planning and Special Projects said that the College of Auditors was working for the agency's institutional strengthening, that it had adopted international good practices, and that it was about to produce the First Institutional Strategic Plan, covering the period 2013 to 2017.

[141] Seventh, bearing in mind that the report of the AGN's President, "Public Control in Argentina. Realities and Prospects" (2002- 2012), and the information gathered during the on-site visit indicate that it would be useful for the country under review to consider taking the appropriate steps to ensure that, when necessary, the AGN has the budgetary resources required as its duties expand and is required to discharge new tasks, the Committee will formulate a recommendation in that regard (see recommendation 3.4.7 in Chapter II of this report).

73. Argentina's response to the questionnaire with respect to oversight bodies, p. 66

[142] In connection with this, it should be noted that page 16 of the report of the AGN's President, "Public Control in Argentina. Realities and Prospects" (2002- 2012), refers to a low level of budget assigned to the AGN over the past decade, compared to other countries, and, during the on-site visit, the AGN's President also stated that as the scope of audited entities is expanded as a result of increased state participation and as new tasks are to be undertaken, such as those arising from environmental problems, additional resources would be required. In addition, one of the auditors general said that budget needs were related to the expansion of duties and that if they had more funds they could pursue more tasks. He also said there had been improvements in the past five years in terms of attention to those requirements; and another auditor general said that the AGN had increased its personnel, that the salaries offered were good, and that the agency was about to relocate to a large, new building.

3.3. Results of the legal framework and/or of other measures

[143] The country's response to the questionnaire with respect to oversight bodies⁷⁴ states that the Office of the Auditor General publishes its reports on its web page. In addition, during the on-site visit, one of the auditors general said that the results can be found in those reports, and he presented those covering the years from 2007 to 2010.⁷⁵

[144] These reports contain such information as the number of each kind of audit conducted during each year, with the following results: in 2007, a total of 179; in 2008, a total of 201; in 2009, a total of 204; and, in 2010, a total of 230.

[145] The Committee believes that this information indicates that the AGN has discharged its auditing duties, and that the number of audits carried out has increased year to year.

[146] In addition to these reports, the AGN's web page, www.agn.gov.ar, also contains the report of the AGN's President, "Public Control in Argentina. Realities and Prospects" (2002- 2012), page 202 of which states that, "Since 2002, 39 judicial complaints have been prepared and 30 cases have been sent to the office of the Prosecutor for Administrative Investigations."

[147] In connection with this, it should be noted that during the on-site visit, the President of the AGN stated that since Law 24156 does not allow the AGN to act as a plaintiff in judicial proceedings, it is unable to follow up on the judicial complaints it formulates.

[148] Given the importance of the AGN being able to follow up on the judicial complaints it formulates, as well as on the cases it refers to the Prosecutor for Administrative Investigations, the Committee will formulate a recommendation for the country under review to consider taking the appropriate steps to ensure that such follow-up can be carried out and that the AGN can be apprised of the results of those complaints and cases (see recommendation 3.4.8 in Chapter II of this report).

74. Argentina's response to the questionnaire with respect to oversight bodies, p. 62.

75. Available at: 2007 Report: <http://agn.gov.ar/memorias/Memoria2007.pdf>; 2008 Report: <http://agn.gov.ar/memorias/Memoria08.pdf>; 2009 Report: <http://agn.gov.ar/memorias/Memoria09.pdf>; 2010 Report: <http://agn.gov.ar/informes/informesPDF2011/Memoria2010.pdf>.

3.4. Conclusions and recommendations

[149] Based on the comprehensive review conducted with respect to the Office of the Auditor General (AGN) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[150] Argentina has considered and adopted measures intended to maintain and strengthen the Office of the Auditor General (AGN) as an oversight body, as described in Chapter II, Section 1 of this report.

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

- 3.4.1 Consider the possibility of enacting the law regarding the AGN referred to in Article 85 of the National Constitution, according to which “this technical assistance organ of Congress, with functional autonomy, will be structured in the manner prescribed by the law that regulates its establishment and operation, which must be approved by a majority of the members in both houses.” (see section 3.2 of Chapter II of this report).
- 3.4.2 Strengthen, where appropriate, interinstitutional coordination between the AGN and other oversight bodies with which it is associated in discharging its duties (see section 3.2 of Chapter II of this report).
- 3.4.3 Strengthen its mechanisms for asserting the responsibility of the employees of the jurisdictions and agencies subject to the AGN’s competence for economic harm to those agencies caused through their bad faith, fault, or negligence in the exercise of their functions, as provided for in Article 130 of Law 24156 of 1992 (see section 3.2 of Chapter II of this report).
- 3.4.4 Take the appropriate steps to ensure the AGN a more active participation in judicial proceedings that address economic harm inflicted on the State, as regards the jurisdictions and agencies subject to its competence (see section 3.2 of Chapter II of this report).
- 3.4.5 Take the appropriate steps to ensure that the AGN has expeditious and timely access to the information it requires to discharge its duties, such as deadlines for the provision of that information and sanctions for those who fail to abide by the obligation of providing it (see section 3.2 of Chapter II of this report).
- 3.4.6 Take the appropriate steps for the institutional strengthening of the AGN, in strategic terms and for the medium and long terms, and for the implementation of the First Institutional Strategic Plan that is soon to be adopted (see section 3.2 of Chapter II of this report).
- 3.4.7 Take the appropriate steps to ensure that the AGN has the budgetary resources required as its duties expand and is required to discharge new tasks (see section 3.2 of Chapter II of this report).

- 3.4.8 Take the appropriate steps to ensure that the AGN can follow up on the judicial complaints it presents and on the cases that it refers to the Prosecutor for Administrative Investigations and that it can be apprised of the results of those complaints and cases (see section 3.3 of Chapter II of this report).

4. INSPECTOR GENERAL OF THE NATION (SIGEN)

4.1. Existence of provisions in the legal framework and/or other measures

[152] The office of the Inspector General of the Nation has a set of provisions in its legal framework and other measures concerning, among others, the following:

[153] Regarding its objectives and the scope of its competence,⁷⁶ under Article 7 of Law No. 24156 of 1992 (the Financial Administration Law), the office of the Inspector General of the Nation is the lead agency of the national public sector's internal oversight system, and that under Article 98 thereof, it has competence in the internal oversight of the jurisdictions that make up the executive branch of the national government and of the decentralized organs and state companies and societies attached thereto.

[154] Regarding the internal oversight system,⁷⁷ Article 100 of Law No. 24156 states that this system comprises the SIGEN as the regulatory, oversight, and coordination agency and the internal auditing units⁷⁸ created within each jurisdiction and the agencies attached to the national executive branch. These units depend, hierarchically, on the ranking authority of each agency and receive technical coordination from the SIGEN.

[155] Regarding its autonomy, Article 97 of Law No. 24156 states that the SIGEN is an entity with its own legal identity and administrative and financial independence, attached to the office of the President of the Nation.

[156] For its functions, Article 104 of Law No. 24156 stipulates that its duties include: enacting and enforcing internal oversight rules, which are to be coordinated with the Office of the Auditor General of the Nation (AGN); issuing and overseeing the enforcement of those rules by the corresponding units; overseeing the proper functioning of the internal oversight system, and assisting the AGN in carrying out its activities; establishing technical quality requirements for the staff of internal auditing units; approving the annual work plans of those units, and guiding and overseeing their execution and results; ensuring the implementation, by the agencies it oversees, of the observations and

76. During the on-site visit, the Inspector General of the Nation explained that when the SIGEN detects irregularities, it reports them to the corresponding authorities (Anticorruption Office, Prosecutor for Administrative Investigations, or Judiciary of the Nation) and that its reports are used as the basis for the work of other agencies with the authority to investigate and punish the irregularities described therein. He also emphasized the corruption-prevention aspects of the SIGEN's work through its maintenance of an effective internal oversight system that also helps detect corrupt acts, and he furnished a document containing a "National Public Sector Risk Map – 2011." It should be specified that Decree 466/2007 authorizes the Anticorruption Office's Investigations Directorate to analyze the information produced by the SIGEN and the AGN in connection with the pursuit of their duties.

77. According to Article 103 of Law No. 24156, the oversight model used and coordinated by the Inspector General's office is comprehensive and integrated, covers budgetary, economic, financial, property, regulatory, and management issues, evaluations of program, projects, and operations, and is based on criteria of economy, efficiency, and effectiveness.

78. According to Article 102 of Law No. 24156, "Internal auditing is a service for the entire organization and it consists of a post-facto examination of the financial and administrative activities of the agencies referred to in this law, carried out by the auditors belonging to the internal auditing units. The functions and activities of internal auditors must be kept separate from the operations that they examine."

recommendations made by those units and agreed on with the persons responsible; directly formulating, to the agencies covered by its competence, recommendations to ensure due compliance with regulations, the correct observance of internal auditing rules, and the criteria of economy, efficiency and, effectiveness; and reporting to the President of the Nation any acts that imply or might imply significant harm to public assets.

[157] Article 104 of Decree No. 1344/07, which regulates Law No. 24156, stipulates that the powers of the SIGEN shall include the following: “(j) formulate recommendations to jurisdictions and agencies, when so required by their actions, to ensure due compliance with regulations and the orientation of management toward the criteria of economy, effectiveness, and efficiency. Authorities receiving recommendations must respond within a period of fifteen (15) days, expressly and with grounds, and when applicable specifying the corrective measures they plan to adopt. In the event of disagreement with or failure to implement recommendations on relevant topics, the Inspector General of the Nation shall inform the President of the Nation and the Chairman of the Cabinet.” Section (o) of this provision also empowers the SIGEN to “oversee the effective adoption, in the jurisdictions and agencies subject to its oversight, of measures to ensure the timely judicial processing of compensation for economic harm and to conduct permanent follow-up of the corresponding proceedings.”

[158] Decree 1154/97, which establishes a procedure⁷⁹ for determining the economic responsibility of public officials and the SIGEN’s involvement therein, states, in Article 6, that the relevant legal services are to inform the internal auditing units, and that those units are to inform the SIGEN, within given deadlines, about the proceedings in which they participated as a result of facts, acts, omissions, or procedures that caused economic harm to the State, in those cases and for those amounts determined by the aforesaid agency, clearly specifying in detail the composition of the amount of the harm, the treatment given to each case, and the case number assigned. Article 7 of this decree states that jurisdictions and agencies must inform their corresponding Internal Auditing Units on the processing status of the case files referred to in the preceding article, and that those Units must convey that information to the SIGEN within 48 hours of being apprised of it; Article 10 further provides that the SIGEN shall provide the President of the Nation with quarterly reports on the economic harm recorded and the procedures adopted in each case to secure due compensation.⁸⁰

[159] Article 109 of Decree 467/99 (Rules of Procedure for Administrative Investigations) states that, when applicable, within three (3) days of the committal report being issued, the committal proceedings, or certified copies thereof, must be conveyed to the SIGEN for it to consider the harm involved and, if applicable, for it to rule on it being economically significant,⁸¹ and that once the proceedings are returned and, in those cases in which the FIA is serving as the plaintiff, it is to be informed of the aforesaid conclusions and of the ruling adopted by the SIGEN.

[160] Article 2 of Resolution SIGEN 28/2006, adopting the procedure for the exercise of the functions assigned to the SIGEN by Decree No. 467/99, states that this activity will be limited to a technical and objective opinion on the harm suffered by the state finances, free of all consideration

79. This procedure regulates the activities for determining the responsibility of public officials that are to be carried out by the corresponding authorities of the jurisdictions and agencies of the executive branch: first, at administrative venues, and, if collection is unsuccessful through administrative channels, by bringing the corresponding judicial action.

80. SIGEN resolution No. 12/2007 states that Internal Auditing Units are to provide the information referred to in the decree using the tool Computer System for Follow-up on Recoveries of Financial Losses (SISREP).

81. By means of Joint Resolution PTN No. 23/2012 and SIGEN No. 139/2012, that amount was set at 3000 Argentine pesos.

related to the responsibility of the accused, timeliness, and, if applicable, method of repayment, and that neither will that intervention imply any judgment on the content of the summary proceedings.

[161] For discharging its functions, in compliance with Article 106 of Law No. 24156, the SIGEN may ask the office of the General Accountant of the Nation and the agencies over which it has jurisdiction for the information it needs to perform its duties. In this, all employees and/or authorities of the national public sector shall provide their assistance, with failure to do so considered a serious offense. Article 107 of that same law also states that the SIGEN shall report to: (a) the President of the Nation, on the financial and operational management of the agencies over which it has competence; (b) the AGN, on the functions discharged by the agencies under the oversight of the Inspector General's office, without prejudice to dealing with specific consultations and requests formulated by the external oversight body;⁸² (c) the general public, on a regular basis.

[162] For the coordination of its functions, the SIGEN has the Federal Public Oversight Network, which "is established as an organizational undertaking that integrates and complements the state oversight and auditing structures, in order to assess the performance of the social programs carried out by national jurisdictions."⁸³

[163] Regarding the way in which its authorities are appointed, how its decisions are adopted, and the resources available for its reviews, under Article 108 of Law No. 24156 the SIGEN is led by an official known as the Inspector General of the Nation, who is appointed by the executive branch of government, who reports directly to the President of the Nation, and who, as provided for in Article 110 thereof, is assisted by three (3) assistant inspectors general. Articles 109 and 111 of that same law set the requirements for those positions; Article 112 sets down the powers of the Inspector General; and Article 113 addresses the participation of the assistant inspectors general in the SIGEN's activities and stipulates that the Inspector General, regardless of delegation, shall in all cases retain full authority within the agency and may hear and decide on any matter placed before it. As for recourses for review, the office is governed by the current applicable legal provisions, the Law on Administrative Proceedings (No. 19549) and its complementary provisions.

[164] Regarding the way in which its human resources are determined, the regime to which they are subject, and staff training, Article 121(c) of Law No. 24156 states that the powers of the Inspector General include appointing members of its permanent staff and promoting, accepting resignations, ordering dismissals, extending pardons, and other disciplinary sanctions in accordance with the current legal regime and the statute enacted in accordance therewith.⁸⁴ Law No. 25188, on public ethics, applies to all members of the agency's staff. The incompatibilities and disqualifications regime is set out in Decree No. 8566/61 and its complementary provisions. Law No. 25164 also defines a disciplinary regime to which all personnel are subject. For staff training, there is a Strategic

82. During the on-site visit, the Inspector General stated that the AGN had been provided with copies of the evaluation reports of the internal oversight system; copies of the financial statements of companies, societies, and financial agencies subject to oversight; copies of the reports of the internal auditors on the financial statements and of the Oversight Commission; situation reports and special reports; business situation reports; and reports of the Federal Network.

83. Argentina's response to the questionnaire with respect to oversight bodies, p. 46.

84. The Collective Sectoral Agreement for SIGEN Personnel – standardized by Decree PEN No. 1714 of November 19, 2010, and in force since October 1, 2010 – establishes the personnel selection regime (Title III) and stipulates examinations of the suitability, experience, skills and appropriate workplace attitudes for holding the post or position (public competition and background record). This agreement states that specific regimes (e.g., personnel selection, personnel training and development, work performance evaluation) shall be established by the State as employer, subject to consultation with the professional bodies that signed the agreement, through the Permanent Interpretation and Career Commission (Co.P.I.C.).

Training Plan and an Annual Training Plan (PAC), prepared by the Training and Development Management.

[165] As for its budgetary resources, Article 99 of Decree No. 1344/07 says that the resources with which the SIGEN funds its activities are to include contributions from the National Treasury determined annually by the General Budget of the National Administration and payments received for special services rendered or others requested by the public sector.

[166] As for the existence of manuals or documented procedures and the use of technology⁸⁵ in discharging its functions, the following, *inter alia*, exist: Internal Oversight Standards;⁸⁶ Internal Auditing Rules;⁸⁷ and Systems Manuals and IT Security Policies. Among the relevant tools developed, mention was made of the Reports and Comments Follow-up System (SISIO WEB II); the Reports and Comments Follow-up System for the Federal Network (SISIO RED FEDERAL); the SIGEN Digital Archiving System; the Computer System for Follow-up on Recoveries of Financial Losses (SISREP); the Complaints System; the Support System for Creation the National Public Sector Risk Map; and the Witness On Line Price System.

[167] For accountability and for providing the public with information and establishing communications with them to secure their support, the SIGEN prepares an annual report of activities, which it publishes on its web page (www.sigen.gov.ar),⁸⁸ which also contains information on such matters as its objectives, functions, and structure. It also communicates with the public using the social networks Facebook (“Sigen Argentina”), YouTube,⁸⁹ and LinkedIn.⁹⁰

[168] Notable among the institutional strengthening actions are the implementation of the 2011/2015 Institutional Strategic Plan;⁹¹ the creation of the Higher Institute for Public Administration Oversight;⁹² the Internal Oversight System Strengthening Program, adopted by means of resolution SIGEN No. 36/2001; and the cooperation and technical assistance agreements in force with public and private entities, both national and international.⁹³ Also during the on-site visit, the SIGEN’s Strategic Planning Manager reported that the agency’s manuals were being reviewed as part of the ISO 9001 quality certification process, which they hope to finalize soon.

85. During the on-site visit, the Inspector General said that there was a large database into which all the internal auditors fed their reports, and this allows following up on the recommendations and ensuring that they are observed.

86. Including: the General Internal Oversight Standards, the Internal Oversight Standards for Information Technologies, and the Internal Oversight System Strengthening Program.

87. Including: the Governmental Internal Auditing Rules and the Governmental Internal Oversight Manual.

88. That page contains, among other documents, the Annual Report (published from 2002 to 2010); the Internal Oversight and Management Report 2007-2011; the 2012 SIGEN Annual Plan; and the 2012 Annual Plan of the Federal Public Oversight Network.

89. <http://www.youtube.com/user/SigenPrensa>.

90. http://www.linkedin.com/companies/sigen?trk=co_search_results&goback=cps_1274293394749_1.

91. During the on-site visit, the SIGEN’s Strategic Planning Manager addressed this topic by means of a PowerPoint presentation, which is available at http://www.oas.org/juridico/PDFs/mesicic4_arg_plan_estra.pdf.

92. This institute carries out training courses and programs, such as the Public Sector Quality Management Course, the Distance-training Program on Ethics and Responsibility in Public Service, and the postgraduate specialization course in Governmental Oversight.

93. The SIGEN also presented various agreements signed with agencies from Argentina and other states and with universities, which may be found on the MESICIC web site, in the section for Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

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

[169] The office of the Inspector General of the Nation has a set of provisions and/or other measures that are relevant for the purposes of the Convention, some of which were succinctly described in section 4.1 of this report. Notwithstanding, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[170] First, bearing in mind that the information gathered during the on-site visit indicates the usefulness of strengthening the SIGEN's functions vis-à-vis state-owned companies and those in which the Argentine State has an equity share, in order for it to secure information on their social responsibility, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 4.4.1 in Chapter II of this report).

[171] In connection with this, it should be noted that during the on-site visit, the Inspector General of the Nation underscored the usefulness of strengthening the SIGEN's functions vis-à-vis state-owned companies and those in which the Argentine State has an equity share, in order for it to secure information on their social responsibility, and he spoke of the existence of a bill dealing with the preparation of a social balance-sheet by those companies.⁹⁴

[172] Second, bearing in mind that the information gathered during the on-site visit indicates that it would be useful to coordinate more closely its functions with those of the National Treasury Oversight Office and the judiciary of the nation, as regards the pursuit of actions for recovering economic harm inflicted on the State, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 4.4.2 in Chapter II of this report).

[173] In connection with this, it should be noted that during the on-site visit, in connection with actions that could imply harm to public assets, the Inspector General of the Nation explained that the corresponding authorities are informed for them to impose the applicable administrative or criminal sanctions or to take the steps toward recovering the economic harm inflicted on the State, and in connection with this latter point, he said that it would be useful to interconnect more closely its functions with the National Treasury Oversight Office and the judiciary of the nation.

[174] Third, bearing in mind that the information gathered during the on-site visit indicates that it would be useful for the SIGEN's permanent staff to have a career system and a manual indicating the functions and requirements of their positions, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 4.4.3 in Chapter II of this report).

[175] In connection with this, it should be noted that during the on-site visit, the SIGEN's Strategic Planning Manager gave a presentation on the 2011-2015 Institutional Strategic Plan; in the section dealing with adapting the human capital to the institution's challenges, item 6.1.1 provides for the establishment of a career plan and item 6.2.2 provides for the establishment of a list of functions and job profiles, including the requirements for filling vacancies.

[176] Fourth, an examination of the SIGEN's web site (www.sigen.gov.ar) indicates that although the "Auditing Reports," "Internal Oversight Reports," "Federal Network Reports," "Business Situation Reports," and "Special Reports" are listed, their contents cannot be accessed, and that the section dealing with that page states that "Users are respectfully informed that, in compliance with

94. The Inspector General furnished a copy of that bill, which is available at the MESICIC web site, in the section for Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

the provisions of Article 11 of Decree No. 1172/03, all requests for information must be made in writing, with the identification of the applicant. For this purpose submissions shall be filed with the office of the Inspector General of the Nation, Av. Corrientes 389, in the city of Buenos Aires, duly signed, and indicating name and surname, national identity number, address, e-mail, and contact telephone of the applicant, along with the details of the information requested. In addition, as provided in Article 9 of Decree No. 1172/03, public access to information is free provided that copying is not required. The cost of copies shall be met by the applicant.”

[177] Since it would facilitate citizens’ access to the contents of those reports if it could be done directly over the SIGEN’s web site, and that at the same time this would save the agency having to process a written application for information and taking charge of the costs that entails, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 4.4.4 in Chapter II of this report).

4.3. Results of the legal framework and/or of other measures

[178] In the response of the country under review to the questionnaire with respect to oversight bodies,⁹⁵ the following comment is offered: “Indicated below is the web site where the reports on the SIGEN’s activities in the period from July 1, 2007, and to September 30, 2011, may be found, together with relevant facts recorded after the closing date; for each of the activities carried out by the agency, the measures adopted and results obtained are indicated and, when applicable, those matters still pending and the planned date of conclusion. That information makes up the 2007-2011 Oversight and Management Report.” The corresponding electronic link is then provided.⁹⁶

[179] This report, which is also published on the SIGEN’s web site (www.siggen.gov.ar) describes, *inter alia*, the following steps taken during the period that it covers:

[180] “During the period in question, the Supervision and Oversight Managements prepared almost 483 Internal Oversight System Evaluation Reports for offices of the central administration and decentralized organs, and 193 Business Situation Reports for companies, societies, and entities.”

[181] “Through the Internal Oversight System Strengthening Program established by Resolution No. 36/2011 SGN, the directors of jurisdictions and agencies are provided with a tool for monitoring the recommendations issued and for following up on the actions taken toward that end. Thus during 2011, five agreements were finalized under the Internal Oversight System Strengthening Program, which combine with the 39 agreements signed under the earlier Resolution No. 114/2004 SGN for a total of 44 agreements geared toward the implementation of recommendations.”

[182] “In addition, more than 500 documents were processed, arising from requests lodged by the judiciary, the Public Prosecution Service, the Anticorruption Office, and other public agencies.”

[183] “During the period covered by the report, the annual work plans of the internal auditing units that operated in the area of the SIGEN’s oversight were analyzed and adopted. The SIGEN’s Supervision and Oversight Managements monitored the proceedings of the internal auditing units, issuing almost 617 Planning Supervision Reports.”

95. Argentina’s response to the questionnaire with respect to oversight bodies, p. 42.

96. N:\Actividades\Libro Blanco 2007-2011\Informe SIGEN\Informe de Control Interno y Gestión 2007-2011_Final.doc.

[184] “During the period covered, almost 260 Auditing Reports were issued.”

[185] “The Supervision, Legal Affairs, and Regulatory and Technical Managements gave technical advice on oversight issues to various authorities responsible for management in the public sector.”

[186] “Federal Network Annual Plan. The combined federal work plan provided for around 800 audits of these social plans during the period under review (2007 to 2011). The average level of execution for the period indicates a compliance rate of close to 85%.”

[187] “Economic Harm and Follow-up of Financial Recoveries. Although because of the lack of a proportionate allocation of new personal, during the period in question there were unfortunate delays in dealing with the disciplinary committal reports lodged with this office for its technical opinion on the value of the alleged harm inflicted, the subsequent distribution and hiring of employees in 2010 led to the expected improvement in the time taken. Over the past year there has been an increase in the number of case files admitted and readmitted for the opinion of this office; in spite of this, reasonable response times were maintained in dealing with these filings. In addition, follow-up is carried out on the steps taken to ensure economic redress for the State, which is described in a quarterly report to the office of the President of the Nation (Decree No. 1154/97).”

[188] In connection with this, it should be noted that during the on-site visit, the Inspector General explained that the SIGEN’s involvement with those Disciplinary Summary reports was covered by Article 109 of the Rules of Procedure for Administrative Investigations and he furnished the following information on the technical reports issued by the SIGEN in connection therewith: 219 in 2008, 287 in 2009, 367 in 2010, 198 in 2011, and 183 between January and September 2012. He also reported that the “Amount Registered in the computer system (2nd quarter 2012)” was “\$86MM.”

[189] During the on-site visit, the Inspector General of the Nation also reported that over the years 2010, 2011, and 2012, the following were communicated to the Office of the Auditor General: 135 Audit Reports, 272 Internal Oversight System Evaluation Reports, 31 Special Reports, 90 Business Situation Reports, and 458 Federal Network Reports.

[190] The Committee believes that the information set out above indicates that the SIGEN has carried out the functions described therein.

[191] Irrespective of the foregoing, since there is no information to indicate the number of cases in which funds have been recuperated for the State within the area of the executive branch, and the amount effectively returned to the public treasury as a result, as set out in Decree 1154/97, which establishes a procedure for determining the economic responsibility of public officials, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 4.4.5 in Chapter II of this report).

[192] In connection with this, it should be noted that during the on-site visit, the Inspector General of the Nation said that the SIGEN does not have that information, and that on account of the duties in the recovery of losses of the National Treasury Oversight Office, it is that agency that would have information in that regard.

[193] The Committee believes that the aforesaid information would assist the SIGEN in carrying out the function assigned to it by Article 104(o), of Decree No. 1344/07, with respect to overseeing the effective adoption in the jurisdictions and agencies subject to its oversight of measures for the timely

judicial processing of compensation for economic harm, which would provide greater understanding on the effectiveness of those measures.

4.4. Conclusions and recommendations

[194] Based on the comprehensive review conducted with respect to the office of the Inspector General of the Nation (SIGEN) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[195] Argentina has considered and adopted measures intended to maintain and strengthen the office of the Inspector General of the Nation as an oversight body, as described in Chapter II, Section 1 of this report.

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

- 4.4.1 Consider the usefulness of adopting the relevant legal measures to strengthen the SIGEN's functions vis-à-vis state-owned companies and those in which the Argentine State has an equity share, in order for it to secure information on their social responsibility (see section 4.2 of Chapter II of this report).
- 4.4.2 Take the appropriate steps to coordinate more closely the SIGEN's functions with those of the National Treasury Oversight Office and the judiciary of the nation, with respect to recovering economic harm inflicted on the State (see section 4.2 of Chapter II of this report).
- 4.4.3 Continue to take the appropriate steps to ensure that the SIGEN's permanent staff has a career system and a manual indicating the functions and requirements of their positions, as provided for in the 2011-2015 Institutional Strategic Plan (see section 4.2 of Chapter II of this report).
- 4.4.4 Make accessible, through the SIGEN's web site, the Auditing, Internal Oversight, Federal Network, Business Situation, and Special Reports that it adopts in discharging its functions (see section 4.2 of Chapter II of this report).
- 4.4.5 Prepare statistical data to reveal the number of cases in which funds have been recuperated for the State within the area of the executive branch, and the amount effectively to the public treasury as a result, in accordance with Decree 1154/97, in order to identify challenges and recommend corrective measures (see section 4.3 of Chapter II of this report).

5. ANTICORRUPTION OFFICE (OA)

5.1. Existence of provisions in the legal framework and/or other measures

[197] The Anticorruption Office has a set of provisions in its legal framework and other measures concerning, among others, the following:

[198] Regarding its objectives⁹⁷ and its area of competence, it should be noted that under Article 13 of Law No. 25233 of 1999 (the Ministries Law), the Anticorruption Office is created within the Ministry of Justice and Human Rights and is charged with preparing and coordinating anticorruption programs in the national public sector and, along with the office of the Prosecutor for Administrative Investigations (FIA), enjoys the authorities and powers established in Articles 26, 45, and 50 of Law No. 24946, the Organic Prosecution Service Law (LOMP). Its area of authority covers the national centralized and decentralized public administration, companies, societies, and all other public and private bodies with state participation or that have state contributions as their main source of funding.

[199] Article 2 of Decree No. 102/99 states that its functions include the following: (a) Receiving complaints made by private citizens or public employees related to its purpose; (b) Conducting preliminary investigations of employees suspected of committing any of the offenses listed in the previous paragraph. In all such cases, the investigations shall be opened at the sole initiative of the OA, without the need for any other state authority to order it; (c) Conducting preliminary investigations of all institutions and associations for which the main source of funding is state contributions, provided either directly or indirectly, in the event of reasonable suspicion of irregularities in the handling of those resources; (d) Reporting, to the competent judicial bodies, such facts as could constitute offenses as a result of the investigations carried out; (e) Appearing as plaintiff in proceedings affecting state assets, within the scope of its competence; (f) Keeping a register of public employees' sworn statements; (g) Assessing and overseeing the contents of public employees' sworn statements and any situations that could constitute illicit enrichment in or incompatibility with public service; (h) Preparing programs to prevent corruption and to promote transparency in the public administration; (i) Advising state agencies in implementing policies or programs to prevent acts of corruption.

[200] Similarly, Decree 466/2007 assigns the OA the following functions: (1) Preparing and coordinating anticorruption and corruption-prevention programs in the national public sector. (2) Overseeing compliance with the international anticorruption conventions ratified by the State. (3) Pursuing, on its own initiative or upon receipt of a complaint, the relevant investigations in connection with the actions of public employees, to determine the existence of allegedly illegal or irregular acts that could harm state assets. (4) Conducting investigations to oversee all institutions and associations that have state contributions as their main source of funding, if indications of irregular handling of those resources are detected. (5) Making presentations to the relevant administrative or judicial authorities to promote the actions indicated by the results of its investigations, exercising the powers assigned to it by current laws and regulations. (6) Keeping a register of public employees' sworn statements and analyzing their contents in order to detect any situations that could constitute enrichment in or incompatibility with the pursuit of duties. (7) Advising national public sector agencies in implementing policies or programs to prevent or combat corruption. (8) Preparing the reports stipulated in the regulations.

[201] Resolution MJDH 17/2000 established the OA's jurisdiction as the enforcement agency for Law No. 25188 (Law on Public Service Ethics), whereby it exercises the powers assigned to the Ministry of Justice and Human Rights by Decree No. 164/99, which regulates that law on matters

97. During the on-site visit, the OA's Prosecutor for Administrative Oversight gave a presentation on the office's purpose, functions, and structure, in which he emphasized its nature as an administrative body charged with designing corruption-prevention policies, with pursuing preliminary investigations into acts of corruption, reporting them to the competent authorities, and taking the relevant steps to punish the guilty and secure redress for the economic harm inflicted on the State, and with overseeing compliance with the international anticorruption conventions signed by Argentina under the aegis of the OAS, the UN, and the OECD.

such as comprehensive sworn statements of net worth and the regime of incompatibilities and conflicts of interest.

[202] In addition to the above functions, as already stated, in conjunction with the office of the Prosecutor for Administrative Investigations, the OA enjoys the authority and powers established in Articles 26, 45, and 50 of Law No. 24946 (Organic Prosecution Service Law), which were already described in section 1, Chapter II, of this report. Article 26 of this law contains an important provision whereby the OA can obtain support from other authorities, stating that officials of the Public Prosecution Service may, in order to better perform their functions, request reports from national, provincial, and municipal bodies, from private organizations, and from private citizens, when applicable, and may seek the assistance of police authorities to conduct formalities and summon individuals to their offices, for the sole purpose of taking witness statements.

[203] Regarding the way in which its officers are appointed and its decisions are adopted, and in connection with review remedies, in accordance with Decree 102/99, the OA is led by a Prosecutor for Administrative Oversight, with a senior rank of Secretary, who is appointed and removed by the President of the Nation from a proposal made by the Minister of Justice and Human Rights (Article 6); the Directorate of Transparency Policy Planning is led by an official with the senior rank of Undersecretary, appointed and removed by the President of the Nation from a proposal made by the Minister (Article 10); and the Investigations Directorate is led by an official with the senior rank of Undersecretary, appointed and removed by the President of the Nation from a proposal made by the Minister (Article 10). This decree and Decree 466/2007 assign functions among these authorities and their decisions are subject to the recourses for review as set out in the Law of Administrative Proceedings (No. 19549).

[204] For the coordination of its functions with those of other agencies, Article 8 of Decree 102/99 states that the powers of the Prosecutor for Administrative Oversight include coordinating the office's actions with those of other state oversight bodies.

[205] Regarding the determination of its human resources and the regime applicable to them, the OA's permanent staff are subject to Law No. 25164 (Framework Law on Public Employment) and the administrative career regime of the public administration regulated by the Collective Sectoral Work Contract of the personnel of the National Public Employment System (SINEP), formalized by Decree 2098/2008.⁹⁸ Articles 7 and 15 of Decree 102/99 deal with hiring requirements; and impediments, disqualifications, and incompatibilities are covered by Law No. 25188 (Articles 13, 14, and 15) and by Article 5 of Law 25164, which also sets out the disciplinary regime.

[206] For personnel training, as indicated in the response to the questionnaire,⁹⁹ there are frequent internal workshops for training and exchanges of ideas on topics related to the OA's duties, such as the numerous instances in which regulatory proposals have been discussed or outreach materials have been prepared.¹⁰⁰ Also, within the "Education in Values" module of the OA's Institutional Strengthening Project, civil servants from the office were trained in the use of the teaching tools devised by that project, in order for them, in turn, to serve as trainers and outreach agents.

98. Available at: <http://infoleg.mecon.gov.ar/infolegInternet/anexos/145000-149999/148090/texact.htm>.

99. Argentina's response to the questionnaire with respect to oversight bodies, pp. 22 and 23.

100. Those materials are available on the OA's web site, through "OA publications" (http://www.anticorruptcion.gov.ar/politicas_08.asp) and "Anticorruption policies" / "Regulatory proposals" (http://www.anticorruptcion.gov.ar/politicas_02.asp).

[207] Regarding its budgetary resources, the OA is funded with resources from the Ministry of Justice and Human Rights. In addition, like all the agencies attached to that Ministry, it receives funds from what are known as Cooperating Bodies, as provided for in Laws Nos. 23283 and 23412.¹⁰¹

[208] Regarding the existence of manuals or documented procedures and the use of technology, Resolution MJDH No. 1316/2008 (Internal Regulations)¹⁰² stipulates, in Annex I, the procedure whereby the Investigations Directorate (DIOA) deals with complaints and proceedings, and, in Annex II, the procedure to be followed in the proceedings described in Chapter V of Law No. 25188 (incompatibilities and conflicts of interest) by the Directorate of Transparency Planning and Policies (DPPT). The OA has a web site, available at www.anticorrupcion.gov.ar, which links to the DPPT's Unit for Control and Follow-up of Sworn Statements (www.ddijonline.gov.ar) in order to facilitate, through a computer system, public officials' compliance with their obligations in this area.

[209] Regarding accountability and for providing the public with information and establishing communications with them in order to secure their support, Article 17 of Decree 102/99 provides that the OA shall submit to the Minister of Justice and Human Rights a twice-yearly report and an annual report on its activities, addressing in particular the recommendations on administrative and management reforms to prevent the repetition of administrative offenses and irregularities. Similarly, Article 18 states that the reports described in the previous article shall be public and may be consulted in person or over the internet. On the OA's web site, in addition to these reports, there is information on such matters as its objectives and functions, mechanisms for filing complaints, and the various means of communication with the OA that are available.

[210] Notable among its efforts for institutional strengthening is the OA's Institutional Strengthening Project,¹⁰³ which is intended to strengthen the development of the office's preventive policies, and which, since 2005, has been implemented through the following components: (1) Map of conditions of transparency and accessibility in public procurement; (2) Distance training (e-learning); (3) Ethical training to prevent corruption; (4) Anticorruption Office information and documentation system; (5) Cooperation and technical assistance with subnational governments; and (6) Cooperation and technical assistance with the private sector.

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

[211] The Anticorruption Office (OA) has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 5.1 of this report. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[212] First, bearing in mind that the information gathered during the on-site visit indicates a need for strengthened interinstitutional coordination between the OA and the other oversight bodies with which it comes into contact in discharging its duties, the Committee believes it would be useful for the country under review to consider taking the appropriate steps toward that goal, such as

101. Argentina's response to the questionnaire with respect to oversight bodies, p. 29.

102. Available at: http://www.anticorrupcion.gov.ar/PDF/Res_OA_1316_2008.pdf.

103. During the on-site visit, the OA's Director of Transparency Policy Planning explained the efforts made to implement each of this project's components and their results. The complete report may be seen at in the OA's six-monthly and annual reports, covering the period from 2005 to date, by accessing the following address <http://www.anticorrupcion.gov.ar/gestion.asp> and selecting the chapter dealing with the project.

establishing norms to determine the coordination that applies in each case (see recommendation 5.4.1 in Chapter II of this report).

[213] In connection with this, the Committee underscores the importance of strengthening the relevant coordination, bearing in mind the shared powers of the OA and the FIA under Articles 26, 45, and 50 of the Organic Law of the Prosecution Service, and the OA's relations with, *inter alia*, the SIGEN, the AGN, the National Treasury Oversight Office, and the judiciary of the nation.

[214] During the on-site visit, the Attorney General of the Nation said that the existence of multiple agents for carrying out investigations made coordination difficult, and the OA's Deputy Director for Investigations said that the aim was to avoid duplications of efforts among the many players involved and that coordination with the prosecutors took place on the basis of relationships of personal trust, in consideration of state interests. He also explained that in its work, the OA takes advantage of the efforts of the SIGEN and the AGN, in the reports of which possible irregularities may be detected. The OA also conducts preliminary investigations into those irregularities that may be of use to the FIA, the PJN, agencies of the public administration, and the Treasury Oversight Office, to which it refers the investigations in accordance with their areas of competence, for them to apply the relevant sanctions or to take steps to recover economic losses.

[215] Regarding these points, it should be noted that in the report prepared by the "Follow-up Commission on Compliance with the Inter-American Convention against Corruption" and presented by the "Inter-American Bar Association,"¹⁰⁴ the following comment is offered: "At the meeting held by this Follow-up Commission with officials from the oversight bodies under review on March 27, 2012, officials from both the Anticorruption Office and the office of the National Prosecutor for Administrative Investigations agreed that their two agencies acted in coordination, but, rather than because of any express provisions on the matter, this was on account of the good will and mutual familiarity of the officials involved."

[216] Second, bearing in mind that both the OA's "2011 Annual Management Report" and the information gathered during the on-site visit indicate the need for the country under review to consider the possibility of carrying out an analysis of the articles of the Criminal Code dealing with statutory limitations, with a view to making the adjustments necessary to avoid their frequent use as a cause for ending criminal proceedings in corruption cases, the Committee will formulate a recommendation in that regard (see recommendation 5.4.2 in Chapter II of this report).

[217] In connection with this, it should be noted that the OA's "2011 Annual Management Report" states that: "Following the last legal reforms on statutory limitations in criminal cases (as set down in Articles 62, 63, 64, and 67 of the Criminal Code), there have been a large number of defense motions seeking the end of criminal action in a large number of cases. At present, given the different legal interpretations that exist due to this change in legislation, a large number of motions are still being filed in an attempt to apply statutory limitations to criminal action." – "In addition, this office is concerned about the possible adverse effect on the continuation of federal cases in the Federal Capital, since rulings of great import have been issued in which statutory limitations have been ordered to apply in cases in which the exhaustion of the reasonable time limit for reaching a final judgment has been argued."¹⁰⁵

104. Document "Follow-up Commission on Compliance with the Inter-American Convention against Corruption" – "Sixth Report," p. 40.

105. "2011 Annual Management Report," p. 29. Available at <http://www.anticorruccion.gov.ar/gestion.asp>.

[218] Further to this, during the on-site visit, the OA's Deputy Director for Investigations spoke of situations in which the circumstances described above occurred, including when a civil servant retires and is presented with sworn statement some time later – situations in which the PJN has held that the element of malice required for criminal responsibility did not exist; or when two sanctions of a different nature are both involved, in which case it is not clear how statutory limitations operate. On this point he said that given the amendments made to the Criminal Code in recent years, it would be useful for a regulation to clarify how statutory limitations apply.

[219] Also during the on-site visit, the First Vice President of the National Criminal and Correctional Appeals Chamber of the Federal Capital cited, as one of the possible reasons for the triggering of statutory limitations, the interpretation made of Article 67 of the Criminal Code in complex cases involving a large number of actions and defendants, as regards with which action statutory limitations are calculated, and whether these limitations are interrupted for all the defendants when grounds exist for its interruption with respect to one of them.

[220] Third, bearing in mind that the OA's "2011 Annual Management Report" and the information gathered during the on-site visit indicate that it would be beneficial for the country under review to consider taking the appropriate steps to ensure that the OA has, when necessary, the human resources it requires, as the number of subjects obliged to present sworn statements increases and the number of oral trials involving corruption cases rises, the Committee will formulate a recommendation to the country under review in that regard (see recommendation 5.4.3 in Chapter II of this report).

[221] In connection with this, it should be noted that the OA's "2011 Annual Management Report,"¹⁰⁶ refers to an operational "bottleneck" following the expansion of the number of persons required to file sworn statements and, on this point, it notes that: "All oversight tasks are carried out by the OA's Unit for Control and Follow-up of Sworn Statements, which has a reduced staff of no more than 14 people responsible for approximately 36,000 civil servants from the entire national public administration (the national executive branch): obligatory, annual oversight is performed with respect to 3,500 public employees while, for the rest, the oversight examinations are random."

[222] Similarly, during the on-site visit, the OA's Director for Investigations stated that for the moment, with respect to her work area, the assigned personnel was enough, but that more attorneys could be needed if the number of oral trials increased. The Director of Transparency Policy Planning said that the OA has around 100 staff, with a high level of professionalism, and that for over the past two years the number of civil servants subject to oversight has been increasing. The Coordinator of the Unit for Control and Follow-up of Sworn Statements indicated that the agencies were increasing the scope of persons required to file sworn statements. He also said that over the past three years he had participated as a plaintiff in the proceedings brought as a result of the criminal charges initiated by his area.

[223] Regarding these points, it should be noted that the report prepared by the "Follow-up Commission on Compliance with the Inter-American Convention against Corruption" and presented by the "Inter-American Bar Association"¹⁰⁷ says that it would be recommendable to assign more personnel to the OA.

106. "2011 Annual Management Report," p. 53.

107. Document "Follow-up Commission on Compliance with the Inter-American Convention against Corruption" – "Sixth Report," p. 50.

[224] Fourth, bearing in mind that the OA’s “2011 Annual Management Report” and the information gathered during the on-site visit indicate that it would benefit the strengthening of the sworn statements regime to continue with the review of the regulations and procedures applicable to that regime, in order to optimize oversight over changes in net worth and the activities of public servants covered by the Plan adopted by the OA for the purpose, the Committee will formulate a recommendation for the State in that regard (see recommendation 5.4.4 in Chapter II of this report).

[225] In connection with this, it should be noted that the OA’s “2011 Annual Management Report”¹⁰⁸ makes reference to the Sworn Statement Regime Strengthening Plan, “whose purpose is to optimize oversight over changes in net worth and the activities of public servants, includes reviewing the regulations and procedures to make them more severe, training the areas responsible for them throughout the public administration, designing and applying new oversight mechanisms for enforcement, and allowing the OA to appear as a plaintiff in noncompliance proceedings.”

[226] Similarly, during the on-site visit, the Coordinator of the OA’s Unit for Control and Follow-up of Sworn Statements explained the ongoing implementation of this plan and the actions taken in connection with it, including participation as a plaintiff in proceedings brought as a result of criminal complaints initiated by the area. He also reported the adoption in 2011 of Resolution OA No. 09/2011, which provides for a 20% suspension of the earnings of civil servants who fail to present their initial and annual sworn statements,¹⁰⁹ which has already been enforced,¹¹⁰ and he said that work was concluding on the design of the relevant regulations and on the implementation of a database.

5.3. Results of the legal framework and/or of other measures

[227] The country’s response to the questionnaire with respect to oversight bodies¹¹¹ indicates that the results of the OA’s activities can be found in its semi-annual and annual reports, which are published on its web site (www.anticorrupcion.gov.ar) under the “management reports” tab.¹¹²

[228] In addition, during the on-site visit, the authorities of the OA offered to furnish compiled data on the office’s results over 2007 to 2011; they subsequently provided that information, explaining that it reflected figures taken from the aforesaid reports, as follows:

[229] Statistical Data of the Investigations Directorate (DIOA):

[230] The information provided¹¹³ indicates, *inter alia*, the following:

[231] – Results in Preliminary Investigations:

	2007	2008	2009	2010	2011	TOTAL
Open Files	513	296	323	329	338	1799
Preliminary Investigations Opened	70	28	59	55	33	245
Referral to Public Agencies	154	78	48	14	41	335
Criminal Complaint	58	32	18	44	56	208

108. “2011 Annual Management Report,” pp. 52 to 54.

109. Available at: [http://www.anticorrupcion.gov.ar/Documentos/Res%20OA%202011-9%20\(Disp%20inc\).pdf](http://www.anticorrupcion.gov.ar/Documentos/Res%20OA%202011-9%20(Disp%20inc).pdf).

110. Information was provided on one case in which an official’s salary was garnished under that resolution, which may be seen at http://www.oas.org/juridico/PDFs/mesicic4_arg_OA.pdf.

111. Argentina’s response to the questionnaire with respect to oversight bodies, p. 21.

112. Accessible directly through <http://www.anticorrupcion.gov.ar/gestion.asp>.

113. Available at: http://www.oas.org/juridico/PDFs/mesicic4_arg_est.pdf.

Referred for Lack of Competence	18	6	9	3	8	44
Referred for Irrelevance	21	9	2	5	1	38
Dismissal / Closed	401	307	231	175	304	1418

[232] In connection with this statistical chart, the OA noted that the year-on-year variations can be explained by various factors, most of which are unrelated to the OA’s activities, such as: the quantity and quality of the complaints received; the complexity of the alleged facts; the number of suspects involved in an incident; the response furnished to the OA by agencies and officials who are asked to supply information (in terms of the time taken to respond, the quality of the answers given, or whether the response is complete or partial); the quality of the information to be collected (there are cases in which the necessary information is available on the web sites of the agencies or ministries, or that the OA can access on-line through databases, while on other occasions the information is difficult to obtain); and in many cases involving parallel investigations – either on the OA’s initiative or at the request of the PJN or MPF – the OA refers its proceedings to the justice system (such cases, which are constantly on the increase, are not recorded as either complaints or referrals; instead, the proceedings is passed to the justice system and the internal investigation is closed).

[233] Regarding the information presented on this statistical chart, the Committee notes that there was a reduction in the number of preliminary investigations opened by the OA in 2007 and those opened in subsequent years. The Committee understands the OA’s comments that external factors impact the variations reported on the chart and, consequently, it will formulate a recommendation for the country under review for it to consider adopting the relevant corrective measures to prevent situations unrelated to the OA that can be corrected by the corresponding authority – such as delays in the answers provided to the OA by public agencies and the quality thereof – from leading to a decrease in the investigations led by this office (see recommendation 5.4.5 in Chapter II of this report).

[234] – Origin of investigations:

	2007	2008	2009	2010	2011	Total
Public agencies	18	19	10	14	8	69
Private complaints	326	179	140	146	128	919
Ex officio / OA	169	98	173	169	202	811

[235] The Committee believes that this information indicates that the OA has used the three methods provided for in its regulations to open preliminary investigations.

[236] – Proceedings before the justice system:

[237] “This table records the results obtained in all the case files in which the OA is involved that are being processed before agencies of the justice system.”

	2007	2008	2009	2010	2011	Total
New Cases	5	5	-	7	8	25
Accrued No. of Cases	87	88	84	90	97	97
Summons to Investigation (by No. of accused)	71	70	10	53	23	227
Prosecutions / Expansions / Confirmations (by No. of accused)	17	96	56	59	40	268

Orders / Referrals to Trial (by No. of cases)	12	6	13	16	6	53
Trial Summonses / Admissibility of Evidence (by No. of cases)	*	5	4	7	7	23
Oppositions to Statutory Limitations (by No. of accused) ¹¹⁴	10**	21	16	53	35	135
Oppositions to Closing / Lack of Merit / Dismissals / Acquittals (by No. of accused) ¹¹⁵	***	47	24	71	98	240
No. of Follow-up or Joint Prosecution Cases	36	32	35	45	44	44
<p>* <i>This figure was not reported in 2007.</i></p> <p>** <i>In 2007 the number of cases in which the OA opposed various applications for statutory limitations was reported, not the total amount of applications discussed (by accused) as in subsequent years.</i></p> <p>*** <i>This figure was not reported in 2007.</i></p>						

[238] The Committee believes that this information indicates that the OA has discharged its duties of in the area of judicial actions as provided for in its regulations.

[239] Statistical data from the Unit for Control and Follow-up of Sworn Statements:

[240] The information provided¹¹⁶ on the number of sworn statements presented to the OA and analyzed by the office indicates, *inter alia*, the following:

[241] In the year 2011, of a total of 43,058 sworn statements presented to the OA, 4,293 were analyzed, including 1,259 filed by senior public officials.¹¹⁷ The remainder were selected for review in accordance with established criteria – such as the hierarchical position of the post held (667) and/or percentage increases in net worths reported by the LUPA System (2,093) – or were cases chosen for re-analysis (274). As a result, 82 proceedings for incompatibilities and conflicts of interest were conducted.

[242] In 2010, of a total of 39,949 sworn statements presented to the OA, 4,078 were analyzed, of which 1,281 were filed by senior public officials and the remainder were selected for review in accordance with established criteria – such as the hierarchical position of the post held (588) and/or percentage increases in net worths reported by the LUPA System (1,912) – or were cases chosen for re-analysis (297). As a result, 61 proceedings for incompatibilities and conflicts of interest were conducted.

[243] In 2009, of a total of 43,123 sworn statements presented to the OA, 4,003 were analyzed, of which 1,248 were filed by senior public officials and the remainder were selected for review in accordance with established criteria – such as the hierarchical position of the post held (866) and/or percentage increases in net worths reported by the LUPA System (1,575) – or were cases chosen for re-analysis (314). As a result, 61 proceedings for incompatibilities and conflicts of interest were conducted.

114. The results of these actions are covered in the management reports.

115. The results of these actions are covered in the management reports.

116. Available at: http://www.oas.org/juridico/PDFs/mesicic_arg_DDJJ.pdf

117. These sworn statements are identified as “senior” in the statistical information provided by the OA.

[244] In the year 2008, of a total of 38,231 sworn statements presented to the OA, 3,884 were analyzed, including 1,511 filed by senior public officials. As a result, 62 proceedings for incompatibilities and conflicts of interest were conducted.

[245] In the year 2007, of a total of 30,682 sworn statements presented to the OA, 3,907 were analyzed, including 1,502 filed by senior public officials. As a result, 65 proceedings for incompatibilities and conflicts of interest were conducted.

[246] The Committee believes that this information indicates that the OA has discharged its duties in the analysis of sworn statements as provided for in the regulations and that, as a result, it has conducted proceedings into incompatibilities and conflicts of interest.

5.4. Conclusions and recommendations

[247] Based on the comprehensive review conducted with respect to the Anticorruption Office (OA) in the foregoing sections, the Committee offers the following conclusions and recommendations:

[248] Argentina has considered and adopted measures intended to maintain and strengthen the Anticorruption Office, as an oversight body, as described in Chapter II, Section 1 of this report.

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

- 5.4.1 Strengthen interinstitutional coordination between the OA and the other oversight bodies with which it comes into contact in discharging its duties and take the appropriate steps toward that goal, such as establishing norms to determine the coordination applicable for each case (see section 5.2 of Chapter II of this report).
- 5.4.2 Consider the possibility of carrying out an analysis of the articles of the Criminal Code with respect to statutory limitations, with a view to making the adjustments necessary to avoid their frequent use as a cause for the termination of criminal proceedings in corruption cases (see section 5.2 of Chapter II of this report).
- 5.4.3 Consider to take the appropriate steps to ensure that the OA has the human resources it requires, as the number of persons required to present sworn statements increases and the number of oral trials involving corruption cases rises (see section 5.2 of Chapter II of this report).
- 5.4.4 Encourage the continuance of the Sworn Statement Regime Strengthening Plan adopted by the OA, which provides for reviews of the regulations and procedures related to that regime (see section 5.2 of Chapter II of this report).
- 5.4.5 Adopt the relevant corrective measures to prevent situations unrelated to the OA that can be corrected by the corresponding authority – such as delays in the answers provided to the OA by public agencies and the quality thereof – from leading to a decrease in the investigations led by this office (see section 5.3 of Chapter II of this report).

III. BEST PRACTICES

[250] In accordance with Section IV of the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round* and the *Format* adopted by the Committee for the Reports of said Round, reference is made to the best practices identified by the country under review, which it has expressed its wish to share with the other member States of the MESICIC, as it could be beneficial to them:

[251] 1. With respect to the Public Prosecution Service / Office of the Attorney General of the Nation, to which the office of the Prosecutor for Administrative Investigations belongs:

[252] – “Office of Coordination and Follow-up for Crimes against the Public Administration”: Created to assist prosecutors involved in corruption cases, to improve their ability to investigate crimes of that nature, the functions of which, according to the resolution whereby it was created, (Res. PGN No. 86/09), are: (a) Following up on ongoing cases and establishing a database; (b) Proposing prosecution strategies and preparing protocols for action in that regard; (c) Preparing reports on the status of the matter in different parts of the country; (d) Proposing to the Attorney General the interinstitutional actions necessary to facilitate and expedite investigations; (e) Advising the Attorney General in the adoption of institutional measures in the respective area.¹¹⁸

[253] Additional information may be found in the country’s response on “Information on Good Practices,” pp. 19 to 23.¹¹⁹

[254] 2. With respect to the Judiciary of the Nation – Supreme Court of Justice of the Nation:

[255] – “Judicial Information Center (ICJ) / Open Government: This is an initiative of the Supreme Court of Justice of the Nation that is part of a state policy to encourage citizen participation in the administration of justice over the internet, promote transparency in government undertakings, and strengthen the Court’s ongoing efforts in outreach and access to information. Through the web site (www.cij.gov.ar/gobiernoabierto), the Court offers the public digital tools (including social networks such as Facebook and Twitter) for them to communicate queries, suggestions, and opinions to the different areas involved in providing judicial services. New developments in computer technology are also used to step up the dissemination of administrative decisions and all relevant judicial information related to the Court’s undertakings. The initiative represents a change in paradigm in the way the judiciary is managed. The Court’s chosen management model is based on information transparency, social participation, and the priority given to the service given to the community.”

[256] Additional information may be found in the country’s response on “Information on Good Practices,” pp. 16 to 18.¹²⁰

118. According with the information provided for the country under review on January 21, 2013, the functions of the Office of Coordination and Follow-up for Crimes against the Public Administration were absorbed into and adapted to the Office of the Prosecutor for Economic Crimes and Money Laundering by means of Resolution PGN No. 914/12 of December 20, 2012. For further information, see section 1.2 of Chapter II of this report.

119. Available on the MESICIC web site, in the section for Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

120. Available on the MESICIC web site, in the section for Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

[257] **3. With respect to the Office of the Auditor General:**

[258] – “Integrated Institutional Communication Program: The aim of the program is to publicize the work of the Office of the Auditor General and establish closer relations between its institutional management and the general public. For this, various tools and outreach methods are used that, first, seek the greatest impact through repetition, and, second, allow different segments of the population to be targeted. In addition, the use of information technology tools that are familiar to and used daily by the public (e-mail, social networks, web sites) ensures greater effectiveness in disseminating the agency’s actions. In this way, the goal of increased transparency in institutional management is attained.”

[259] Additional information may be found in the country’s response on “Information on Good Practices,” pp. 12 to 15.¹²¹

[260] **4. With respect to the office of the Inspector General of the Nation:**

[261] – “Federal Public Oversight Network: At the initiative of the national executive branch, the office of the Inspector General of the Nation created the Federal Public Oversight Network, an organizational undertaking that integrates and complements the state structures for oversight and auditing at the national, provincial, and municipal levels, in order to assess the performance of the social programs funded by national-level bodies. It also serves to ensure the coverage of oversight, through monitoring and direct actions in the execution locations of the social programs outlined in the social policy framework designed by the National State.”

[262] Additional information may be found in the country’s response on “Information on Good Practices,” pp. 8 to 11.¹²²

[263] **5. With respect to the Anticorruption Office:**

[264] – “System of Comprehensive Sworn Statements of Net Worth of Public Officials: Topics addressed: Transparency / Accountability / Prevention of conflicts of interest and incompatibilities / Detection of illicit enrichment.” “Description of the best practice: Two of the Anticorruption Office’s main purposes are identifying and investigating possible corruption offenses committed by public officials, and detecting incompatibilities and conflicts of interest in the performance of public duties. Another of the OA’s essential tasks is to prepare and coordinate corruption prevention policies. To pursue those goals, the Argentine Republic’s Anticorruption Office created, and has been implementing for more than a decade, an effective system of sworn statements of net worth for public officials in the national executive branch, a detailed description of which may be found in the documents cited below.”¹²³

121. Available on the MESICIC web site, in the section for Argentina (Fourth Round)

(<http://www.oas.org/juridico/spanish/arg.htm>).

122. Available on the MESICIC web site, in the section for Argentina (Fourth Round)

(<http://www.oas.org/juridico/spanish/arg.htm>).

123. “The System’s implementation is described in detail in the book “Sworn statements of Public Officials. A Tool for Corruption Prevention and Control. Computer Technology and Public Management.” Anticorruption Office. Series: Strategies for Transparency, 2nd Edition, 2007. Accessible via www.anticorruccion.gov.ar, “Publications” option, or directly through: <http://www.anticorruccion.gov.ar/documentos/Libro%20DDJJ%202ed.pdf>.”

[265] Additional information may be found in the country's response on "Information on Good Practices," pp. 1 to 7.¹²⁴

IV. FOLLOW-UP ON NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO IMPLEMENTATION OF RECOMMENDATIONS FORMULATED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW¹²⁵

[266] The Committee will refer below to the progress, information, and new developments made by Argentina in relation to the recommendations and measures suggested by the Committee for implementation in the Report of the First Round, and with respect to which the Committee deemed that additional attention was required in the Reports from the Second and Third Rounds,¹²⁶ and shall, as appropriate, take note of those 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 pursuant to section VI of the Methodology adopted by the Committee for the Fourth Round of Review.

[267] The Committee will also take note in this section of the Report of the difficulties in implementing the aforementioned recommendations and the measures to which the country under review has drawn attention, as well as of its technical cooperation needs to that end.

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE THEM (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Recommendation:

Strengthening implementation of laws and regulatory systems concerning conflicts of interest so that they cover all government officials and employees so that they permit practical and effective application of the public ethics system.

First measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensuring more effective enforcement of Law 25,188 for all government employees and officials, including those of the legislative and judicial branches and the Attorney General's office.

[268] With respect to the aforementioned measure, in its response,¹²⁷ the country under review presents information and new developments. In this regard, the Committee notes, as steps that contribute to progress in the implementation of the measure, the following:

124. Available on the MESICIC web site, in the section for Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

125. The list of recommendations that still require additional attention or which have been reformulated following this analysis, have been included as Annex 1 to this report.

126. Available at: <http://www.oas.org/juridico/english/arg.htm>

127. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 1 to 7.

[269] - The actions carried out in the National Executive Branch by the Anti-Corruption Office, as the authority responsible for enforcing Law No. 25.188 in that Branch, with respect to detection and analysis of situations in which civil servants find themselves in a conflict of interest. For 2011, as for each year between 1999 and 2011, those activities are reflected in the number of conflicts of interest and incompatibilities resolved and processed that year.

[270] The Committee takes note of the steps taken by the country under review to advance in its implementation of the first measure of the foregoing recommendation in Chapter IV, Section 1.1 of this report, as well as the need for it to continue to give attention thereto. The steps taken indicate that it has striven to effectively enforce Law No. 25.188 on conflicts of interest in the Executive Branch. However, given that the Committee does not have information regarding the effective enforcement of that Law on conflicts of interest in the Legislature, Judiciary or the Prosecutor General's Office (*Procuraduría General*), it also notes the need for the country under review to continue give attention thereto as regards those branches of government and the Prosecutor General's Office, the Committee considers it appropriate to reformulate the aforementioned measure in the following terms:

[271] Ensure the effective enforcement of Law 25188 for all employees and officials of the legislative and judicial branches and for those of the Prosecutor General's Office (See measure (a) in Annex 1, Section 1.1 of this report)

Second measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Instituting appropriate post-employment restrictions.

[272] With respect to the aforementioned measure, in its response,¹²⁸ the country under review presents information and new developments. In this regard, the Committee notes, as steps that contribute to progress in the implementation of the measure, the following:

[273] - "It should be added that in 2003, in connection with a proposed comprehensive amendment of Law No. 25.188, the Anti-Corruption Office proposed restoring post employment waiting periods (*periodo de carencia ex post*), setting it at two years."¹²⁹

[274] - "We point out, finally, that in a number of administrative proceedings, the Anti-Corruption Office has voiced its opinion that the elimination of the post employment waiting period (after the amendment to Article 15 of Law No. 25.188) is detrimental to the State and detracts from the impartiality of civil servants."

[275] Similarly, during the on-site visit, the Coordinator of the Conflicts of Interest Department of the OA stated that although restrictions provided for in Article 46 of the Civil Service Code of Ethics (Decree No. 41/99) remained in force for the national executive branch, he agreed with the advisability of extending the law's post employment waiting period. A National Deputy reported that various proposed amendments to Law 25188 had been placed before Congress but that none were on

128. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 7 to 9.

129. A footnote to this paragraph reads: "The aforementioned proposed amendment is posted in full on the OA website at www.anticorrupcion.gov.ar, clicking on "*políticas anticorrupción*" [anti-corruption policies] "*proyectos normativos*" [draft regulations]. Specifically to consult the proposed new Article to restore the ex post waiting period, click on <http://www.anticorrupcion.gov.ar/CUADRO%203-CONFLICTOS%20DE%20INTERESES.pdf>."

the agenda for discussion, and another voiced concern about the need to amend the aforementioned law.

[276] The Committee takes note of the steps taken by the country under review to implement the second measure of the recommendation in Chapter IV, Section 1.1 of this report, which are reflected in the draft amendments to Law No. 25.188 referred to in the response and during the on-site visit. It also notes the need for the State to continue to give attention thereto, bearing in mind that the amendment has not yet materialized (See measure (b) in Annex 1, Section 1.1 of this report).

Third measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the non-existence of this Commission; or restructuring the legal and regulatory system to provide for appropriate mechanisms to enforce standards of conduct, including conflict of interest restrictions, for all civil servants.

[277] With respect to the aforementioned measure, in its response,¹³⁰ after alluding to Article 23 to 25 of Law No. 25.188, which provides for the establishment of the aforementioned Commission, the country under review states, inter alia, that:

[278] "...it is worth stressing that failure to establish the National Public Ethics Commission has not prevented implementation of Law No. 25.188 in the different branches of government. Indeed, in each branch, authorities have been appointed to enforce the law and to be responsible for receiving, safeguarding, registering, and archiving the sworn statements of income and wealth."¹³¹

[279] The response of the country under review goes on to say: "despite the above, the National Executive Branch (PEN) took various steps at the time within its sphere of competence that were designed to actually establish the National Public Ethics Commission and thereby comply full with the Law duly passed by Congress." The response then cites the actions taken by the PEN to appoint its representative on the Commission and mentions the participatory workshop organized by the OA on the amendment of Law 25.188 concerning the establishment of the National Public Ethics Commission.¹³²

[280] At the same time, during the on-site visit, Argentina's Alternate Expert to the MESICIC pointed out that failure to establish the Commission had not prevented enforcement of Law 25.188, albeit with varying levels of progress within different branches of government, and one member of the Chamber of Deputies pointed out that neither the Legislature nor the Judiciary had the resources to support that Commission, unlike the Executive Branch which has the OA, which does have the

130. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 9 to 12.

131. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round lists, furthermore, the authorities appointed to that end in the Executive, Judicial, and Legislative branches and the legal provisions supporting those appointments.

132. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round (p. 12) also states: "The outcomes of that participatory workshop may be consulted by any interested party on the Anti-Corruption Office's website (www.anticorruccion.gov.ar, clicking on "políticas anticorrupción" [anti-corruption policies] "proyectos normativos" [draft regulations]. Specifically in relation to the National Public Ethics Commission, the outcomes of the broad and participatory discussion process are posted at:

<http://www.anticorruccion.gov.ar/CUADRO%201-ORGANISMOS%20DE%20CONTROL.pdf>

necessary technical and human resources. He added that the Commission would be independent and that Congress was reviewing a bill for its establishment.

[281] The Committee takes note of the steps taken by the country under review to implement the third measure of the recommendation in Chapter IV, Section 1.1 of this report, reflected in the actions undertaken by the National Executive Branch to promote the actual establishment of the National Public Ethics Commission and in the bill regarding its establishment mentioned during the on-site visit. The Committee also takes note of the need for the country under review to continue to give attention thereto, bearing in mind that the aforementioned Commission has not yet been formed (See measure (c) of Annex I, Section 1.1 of this report).

[282] Regarding the above, the Committee deems it appropriate to bear in mind comments on the aforementioned Commission contained in the First Round Report: "...the Committee wishes to communicate that each State Party is responsible, within their own institutional systems, to consider the applicability of measures to create, maintain or strengthen "enforcement mechanisms" in relation to standards of conduct as referred to in Article III, paragraph 2, of the Convention. In the event that there is a change of mind on the appropriateness of said mechanisms for the mentioned effects. States should consider eliminating or amending them through the manner in which they were created or established."¹³³

[283] At the same time, it should be pointed out that the report prepared by the "Commission for Monitoring Compliance with the Inter-American Convention Against Corruption," presented by the "Inter-American Federation of Lawyers"¹³⁴, notes as follows; "Article 23 of Law No. 25.188, adopted on November 1, 1999 provides for the establishment of the National Public Ethics Commission within the National Congress. So far it has not been established. Currently, there is just bill No. 3031-D-201167 referring to the establishment of that Commission. However, the bill would cease to be reviewed by Parliament if it is not passed in the current legislative period, as happened in previous years with the bills on the establishment of the Commission No. 1602-D-2008 and No. 6207-D-2009."

Fourth measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensuring that officials appointed directly by the President are subject to appropriate, enforceable conflict of interest restrictions, as established by the specific conflict of interest regime contained in the Ministerial Law.

[284] With respect to the aforementioned measure, in its response¹³⁵ and in the on - site visit, the country under review presents information. In this regard, the committee notes the following as a step that leads it to conclude said measure has been satisfactorily considered:

[285] "In the Argentine Republic, civil servants appointed directly by the President are duly subject to appropriate and applicable restrictions regarding conflicts of interest, so that the Law on Ethics in the Exercise of Public Office (Law No. 25.188) is applicable to all officials exercising public office,

133. Report of the First Round of Review of the Committee of Experts of the MESICIC on Argentina, p. 10

134. Document "Follow-up Commission on Compliance with the Inter-American Convention against Corruption" – "Sixth Report," p. 101

135. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 9 to 12

whereby said Law uses a broad definition of *public office* (almost identical to that contained in the CICC [Inter-American Convention against Corruption]).”¹³⁶

[286] At the same time, during the on-site visit, the Committee was told by the OA authorities that, although the Ministries Law has not been regulated, currently there is no doubt about the applicability of Law No. 25.188 to all positions and reference was made to statistical information concerning resolutions adopted by the OA on conflicts of interest of senior officials that demonstrate as much. That information was then provided.¹³⁷

[287] The statistical information provided states that it corresponds to “the application of appropriate restrictions regarding conflicts of interest through Law No. 25.188 on Ethics in Public Office” and shows the number of resolutions on the subject referring to senior officials: five referring to the position of President; one referring to the position of Vice President; three referring to the position of Minister; 19 referring to the position of Secretary; 18 referring to the position of Undersecretary; and 14 referring to “other non-elected positions.”¹³⁸

[288] The Committee takes note of the satisfactory consideration by the country under review of the fourth measure of the foregoing recommendation in Chapter IV, Section 1.1 of this report.

Fifth measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Expanding the coverage of sworn declarations of elected officials to include employment history.

[289] In its response,¹³⁹ the country under review observes, among others:

[290] “Article 12 of the Law on Ethics in the Exercise of Public Office (No. 25.188) establishes: ‘those officials whose tenure of public office is not a direct result of universal suffrage shall include

136. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round (p. 13) contains a transcription of Article 1 of Law No. 25.188, which reads as follows: “This Law on Ethics in the Exercise of Public Office establishes a set of duties, prohibitions, and incompatibilities applicable, without exception, to all those holding public office at every level and rank, be it permanently or on a temporary basis, whether elected by the vote of the people, appointed directly, or selected through competition or any other legal means, and by extension to all State magistrates, officials, and employees. – Public office shall be construed to mean any temporary or permanent activity, be it paid or ad honorem, carried out by an individual in the name or on behalf of the State or its entities, at any level of its hierarchy.”

137. On February 8, 2013, the country under review offered the following remarks: “...the matters addressed by Articles 24 and 25 of the Ministries Law are regulated and enforced by both the Public Ethics Law and Decree 8566/61 on incompatibilities. – Moreover, as part of the experience that the Anticorruption Office has had as the authority responsible for enforcing Law No. 25.188, it has ruled on several occasions regarding Articles 24 and 25 of the Ministries Law (see, for example, OA Resolutions Nos. 3, 19, and 38, available on the Anticorruption Office’s web site through “anticorruption policies” / “conflicts of interest”). – Any failure to comply by a political officer would entail a violation of Articles 2.a and 3 of Law No. 25.188 and could lead to his or her dismissal by the executive branch. – The articles in question provide: “Article 2: The subjects covered by this law are required to abide by the following duties and standards for ethical behavior: (a) Observe and ensure the observance of the nation’s Constitution, laws, and associated regulations, and defend the republican and democratic system of government;...” – “Article 3: As a prerequisite for remaining in their positions, all subjects covered by Article 1 shall conduct themselves in accordance with public ethics in discharging their duties. Should they fail to do so, they shall be punished or removed from their positions by the procedures established in the regime applicable to their function.”

138. That information also indicates that: “the full texts of the resolutions are at the disposal of any interested party and may be accessed on the website of the Anti-Corruption Office, by clicking on www.anticorruccion.gov.ar “políticas anticorrucción” / “conflictos de intereses”; or directly through the following link:

http://www.anticorruccion.gov.ar/politicas_03.asp”

139. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 9 to 12

their previous employment positions in the sworn statement solely in order to facilitate better oversight of possible conflicts of interest.”¹⁴⁰

[291] “With respect to elected officials, it should be remembered that in the Executive Branch only the President and Vice President of the Republic hold positions attained through universal suffrage (Article 94 of the National Constitution). Accordingly, it is important to stress that, in practice, there is only one form for presenting the Sworn Declaration of Income and Wealth approved by Resolution MJ and D.H. No. 1.000/2.000 and that it is applicable to all government officials in the National Executive Branch, with no distinction being made based on the way in which came to hold office or function obliging them to file a sworn statement. For that reason, the President and Vice President of the Republic used the same applications and forms for completing and electronically filing their sworn statements as any other official in the Executive Branch required to file a statement. Thus, since the introduction in 2000 of the system of comprehensive sworn statements of net worth in the Executive Branch, there has been no case of any official—selected, appointed, or elected—refusing to include his or her previous employment positions in the statement”

[292] The Committee takes note of the steps taken by the country under review to advance in the implementation of the fifth measure of the foregoing recommendation in Chapter IV, Section 1.1 of this report, reflected in the inclusion, in practice, of previous employment positions in the sworn statements of elected officials in the National Executive Branch. The Committee also notes the need for it to continue to give attention thereto, bearing in mind that the provision of Law No. 25.188 (Article 12), which exempts elected officials from this obligation, a circumstance that warranted inclusion of said recommended measure in the First Round Report (See measure (d) of Annex I, Section 1.1 of this report).

[293] In light of the above, the Committee deems it appropriate to bear in mind the observation made in the First Round Report, in reference to the aforementioned exception, which reads as follows:¹⁴¹ “Bearing in mind the definition of “public official,” “government official,” or “public servant” in Article I of the Convention, the Committee wishes to note that if the State Party adopts this type of declaration as one of the mechanisms for enforcement of the rules to prevent conflicts of interest, it may wish to consider covering all civil servants that are obligated to make sworn declarations and not just to one category of them.”

Sixth measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Designing and implementing mechanisms to publicize and provide training on the standards of conduct, including those involving conflicts of interest, to all government officials and employees, and to provide further training or periodic updating regarding them.

140. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round (p. 14) goes on to say: “This Article was regulated through Article 2 of Resolution 10/2001, which amends Resolution 1000/2001: Art. 2° - Let the following be included as Article 2 of Resolution MJ and DH No.1000/00: Art. 2° bis – For the purpose of preventing the conflicts of interest and incompatibilities established by Articles 12, 13, 14, and 15 of Law No. 25.188, amended by Decree No. 862 of June 29, 2001, all National Public Administration officials who have not been elected by universal suffrage must include in their Comprehensive Sworn Statement of Income and Wealth a mention of all their jobs or positions, whether remunerated or not, that they are currently performing or performed in the past three years.”

141. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, p. 10.

[294] With respect to the aforementioned measure, in its response,¹⁴² the country under review presents information and new developments. In this regard, the Committee notes the following as a step that leads it to conclude said measure has been satisfactorily considered:

[295] - The distance training courses provided for government officials by the OA through the Public Ethics Training System (SICEP), such as those on “Transparent Procurement and Hiring”; “Public Ethics and Strengthening Transparency in the Tax Administration”; “Ethics, Transparency, and the Fight Against Corruption in Public Administration”; “Ethics, Transparency, and Corruption Control”; and “A Punitive Approach to Combating Corruption.”¹⁴³

[296] - The publication by the OA of the document entitled “Conflicts of Interest. Public and Private Trade-Offs between the Public and the Private Spheres and Preventing Corruption,” designed to train officials and enlighten the general public regarding conflicts of interest in particular.¹⁴⁴

[297] - “Ethical Training for Prevention Corruption—Education in Values” –a course taught by the OA, the purpose of which is to prepare and conduct teaching activities (courses, workshops, seminars, debates, etc.) for secondary school students throughout the country, their family groups, and teachers.

[298] - Public dissemination of corruption prevention policies, reflected in publications that contain guidelines on four core themes of OA management, that are contemplated in Article 3 of the CICC [Inter-American Convention against Corruption]: Conflicts of Interest; Sworn Statements of Government Officials; Citizen Participation; and Government Procurement.¹⁴⁵

[299] - The Directive for Government Officials describing how the Comprehensive Sworn Statements of Income and Wealth system operates. “This comprises an informative triptych and a CD containing tutorial software.”

[300] The Committee takes note of the satisfactory consideration by the country under review of the sixth measure of the foregoing recommendation of Chapter IV, Section 1.1 of this report.

1.2 Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials

Recommendation:

Strengthening the internal and external control systems and utilizing effectively the information generated during audits.

First measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensuring that an effective control system exists for congressional oversight of the expenditure of public funds.

142. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 15 to 20.

143. More detailed information on the SICEP and these courses can be found in the aforementioned response by Argentina (pp. 15 to 18) and on the OA website www.anticorruptcion.gov.ar.

144. Book available at: <http://www.anticorruptcion.gov.ar/documentos/ConflictoDeIntereses.pdf>

145. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, p. 20, indicates the electronic links to these publications.

[301] In its response,¹⁴⁶ the country under review first refers to Article 85 of the National Constitution, which stipulates that external oversight of the economic, financial, property-related, and operational aspects of the national public sector will be assigned to the Legislature and that the Auditor General's Office (AGN), which is a Congressional technical assistance agency, will be in charge of legality control, management, and auditing of all centralized and decentralized public administration activities, however organized, in addition to any other functions assigned to it by law.

[302] Second, the country under review remits, for further information regarding the AGN, its response to the Fourth Round with respect to oversight bodies.

[303] Bearing in mind that Chapter II, Section 3 of this report contains a comprehensive review of the AGN, which takes into account, among other sources of information, the response by the country under review regarding oversight bodies, the Committee considers it appropriate to refer to the comments made in that section, which, inter alia, recommend, in relation to the AGN, that the country under review consider the possibility of issuing the law referred to in Article 85 of the National Constitution, which is not yet being promulgated by the National Congress. This circumstance warranted the formulation in the First Round Report¹⁴⁷ of the aforementioned recommendation and its first measure, which therefore, the Committee takes note of the need for the country under review to give additional attention to implementation thereto (See sole measure in Annex 1, Section 1.2 of this report).

Second measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Making public, where appropriate, the reports issued by control bodies¹⁴⁸.

[304] In its response,¹⁴⁹ the country under review refers to the web pages of the Anti-Corruption Office; the Office of the Inspector General; the Auditor General's Office; the Office of Administrative Investigation Prosecutors/Prosecutorial arm of the Attorney General's Office (*Ministerio Publico Fiscal*); and the Judiciary of the Nation, through which one can access information regarding the work of those bodies and to reports there on.

[305] Bearing in mind that, Chapter II of this report contained an updated and detailed review of the publicity given to reports written by each of the above-mentioned oversight bodies, the Committee adopts the contents of said chapter with regard to each of them and therefore considers that this second measure in recommendation 1.2 has ceased to be relevant.

Third measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Establishing an effective enforcement system for violations of law or regulation found during the course of an audit.

146. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, p. 21

147. See numbered paragraph 2 on page 13 of the Report of the First Round of Review of the Committee of Experts of the MESICIC on Argentina.

148. Regarding this measures, it should be noted that in the Second Round report, the Committee observed that it had been accorded satisfactory consideration, with respect to the Inspector General's Office and the Anti-Corruption Office. See p. 44 of that report.

149. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 15 to 20

[306] During the on-site visit, regarding the remarks in Section 1 of page 13 of the First Round Report, regarding the Office of the Inspector General (SIGEN), to the effect that non-compliance with the provisions of Law 24.156 does not trigger any sanctions, and that the lack of obligation for the authorities receiving recommendations to pronounce and comply with them, the Inspector General stated, that that review failed to distinguish between a body designed for internal control, such as the SIGEN, and an inspectorate (fiscalizadora) which is the body that would impose sanctions.¹⁵⁰ He emphasized that what the SIGEN does is notify the competent authorities of any irregularities it detects in order for those authorities to issue administrative or criminal sanctions, as the case may be, or to take actions designed to recover any losses caused to the State. He also explained that, with respect to the recommendations made by the SIGEN, whenever some entity is reluctant to implement them, this fact is reported to the Head of the Cabinet of Ministers and a 30-day deadline is given for overcoming obstacles. If the reluctance persists, the Head of the Entity may even be removed, because the President of the Republic is periodically informed of problems that arise. The Committee is satisfied with the explanation provided by the country under review regarding the observation contained in Section 1 of page 13 of the First Round Report and it therefore finds that the third measure of recommendation 1.2 in Chapter IV of this report is no longer valid.

Fourth measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensuring the highest degree of stability and independence of internal auditors.

[307] With respect to the foregoing measure, in its response¹⁵¹ and during the on-site visit, the country under review presents information. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered

[308] - The reference in the response of the country under review to Article 100 of Decree No. 1344/07 (regulating Law No. 24.156), which states that “the Internal Audit Units, in support of senior management and on behalf of the organization as a whole, shall act according to the legal provisions in effect and independently. Moreover they shall faithfully and immediately report to the INSPECTOR GENERAL’S OFFICE (SINDICATURA GENERAL DE LA NACIÓN) and to the highest authority in each jurisdiction or entity, the failure to comply with any of the rules governing financial administration and oversight control systems.”

[309] - The clarification provided during the on-site visit by the Inspector General, regarding the labor stability and independence of internal auditors, pointing out that even though they depend hierarchically on the head of the unit in which they work, they cannot be removed without the Office of the Inspector General (SIGEN) first being informed, because SIGEN issues the guidelines for internal audits and establishes the requirements that every internal audit unit must have to guarantee independence and objectivity in the performance of its functions.

[310] At the same time, the Committee considers it appropriate to bear in mind that, with respect to internal auditors, the applicable provisions are those that regulate the systems for hiring civil servants, which were analyzed in detail in Chapter II of the Second Round Report, which the Committee supports.

150. The Inspector General also contributed the following documents explaining the internal controls model in effect in Argentina: [El Modelo de Control Interno de la Ley 24.156](#) ; [El Modelo de Control Interno de la Ley 24.156 - Segunda Parte](#)
151. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 24 and 25.

[311] The Committee takes note of the satisfactory consideration by the country under review of the measure of the foregoing recommendation contained in Chapter IV, Section 1.2 of this report.

1.3. Standards of conduct and mechanisms concerning measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

[312] The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

**2. SYSTEMS FOR REGISTRATION OF INCOME, ASSETS, AND LIABILITIES
(ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)**

Recommendation:

Improve the systems for the timely collection, use, and public release of the financial disclosure reports.

First measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the nonexistence of this Commission; or restructuring the legal and regulatory systems to provide for mechanisms to enforce effectively the systems for registration of income, assets, and liabilities

[313] In its response,¹⁵² the country under review refers to its observations with regard to the third measure of the recommendation in Chapter IV, section 1.1 of this report.

[314] The Committee also considers it appropriate to refer to its review of the third measure of the recommendation in chapter IV, section 1.1 of this report, given that said review is also valid for this first measure of the recommendation contained in chapter IV, section 2. Therefore, the Committee takes note of the need for the country under review to give additional attention to implementation thereto. (See measure a) in section 2 of Annex I of this report).

Second measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Using the financial disclosure reports for counseling public officials on how to avoid conflicts of interest as well as for detecting illicit enrichment.^{153/}

[315] With respect to the foregoing measure, in its response,¹⁵⁴ the country under review presents information and new developments with respect to the system of financial disclosure reports in the context of the national executive branch and its use by the Anti-corruption Office to prevent conflicts of interest and detect cases of illicit enrichment within that context. However, it offers no information with respect to the above measure of the recommendation in connection with the legislative and

152. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 25-27.

153. With respect to this measure, in the report from the Second Round the Committee noted Argentina's satisfactory consideration with respect to the actions taken by the Anticorruption Office. See pp. 43 - 44 of that report.

154. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 28-33.

judicial branches, the Attorney General's Office (*Ministerio Público*), and the Office of the Auditor General, for which no information was provided in the First Round either regarding the use of their financial disclosure reports for the aforementioned purposes, as noted in the Committee's report on Argentina from that Round.¹⁵⁵

[316] Furthermore, in the course of the on-site visit, the Committee was informed by the Attorney General with respect to the financial disclosure reports of the prosecutorial arm of the Attorney General's Office (*Ministerio Público Fiscal*) that the provisions in this area would be reviewed in order to take the above purposes into account. In addition, the President of the Office of the Auditor General told the Committee that the recommendation from the first round should be kept in the terms in which it had been framed and that in his opinion financial disclosure reports should be made public, examined, and followed up upon. The Committee was also informed by a national deputy that financial disclosure reports are not evaluated in the judicial and legislative branches, or in the Attorney General's Office, neither are they followed up upon, and that consideration should be given to the adoption of the computerized system that the Anti-corruption Office uses for financial disclosure reports in the executive branch for use in the other branches of government.

[317] In light of the foregoing, the Committee takes note of the need for the country under review to continue to give attention to the second measure of the recommendation in chapter IV, section 2 of this report with respect to the various authorities and organs of the executive branch mentioned, since, as is indicated in the footnote attached to the paragraph in which the aforesaid measure is transcribed, in the report from the Second Round, the Committee noted Argentina's satisfactory consideration with respect to the actions taken by the Anti-corruption Office. For that reason, The Committee considers it appropriate to reformulate the measure in the following terms:

[318] Use sworn statements of net worth in the Legislature and Judiciary, and in the Office of the Attorney General of the Nation, to advise public officials on avoiding conflicts of interest, and to detect cases of illicit enrichment (See measure (b) in Annex 1, section 2 of this report).

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)

Recommendation:

Examine the feasibility of implementing the proposals contained in the Management Report for 2001 of the Anti-corruption Office

First measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Ensuring better coordination and cooperation among the Attorney General's Office, Administrative Investigations Office, Inspector General, Anti-corruption Office, Auditor General and Congressional Committees.^{156/}

155. See p. 17 of the Report of the MESICIC Committee of Experts on Argentina from the First Round.

156. With respect to this measure, in the report from the second round the Committee noted Argentina's satisfactory consideration as regards the actions taken to achieve greater cooperation by the Anticorruption Office and the Administrative Investigations Bureau. See page 46 of that report.

[319] In its response,¹⁵⁷ The country under review mentioned that to ensure better coordination and cooperation among national and subnational oversight bodies, the Permanent Forum of Offices of Prosecutors of Administrative Investigations and Anti-corruption Offices was established in 2005 for exchanging experience and information with a view to improving the Anti-corruption policies that these national and provincial agencies pursue in their respective jurisdictions.¹⁵⁸

[320] Bearing in mind that chapter II of this report contains an updated, detailed review of interagency coordination among the oversight bodies mentioned in the first measure of recommendation 3, the Committee reiterates its comments in that chapter in this regard with respect to each of those bodies and considers, therefore, that this measure of recommendation 3 is no longer valid.

Second measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Reforming or strengthening the oversight bodies by such measures as transparent and public mechanisms for the selection, appointment, promotion and removal of career employees of such bodies; continuous evaluation and follow-up of actions; political and social support for actions of the oversight bodies; greater autonomy for internal auditors; and independent status for the Anti-corruption Office.^{159/}

[321] In its response,¹⁶⁰ the country under review refers to the rules on recruitment in the Anti-corruption Office, the judicial branch, and the prosecutorial arm of the Attorney General's Office.

[322] To begin with, bearing in mind that chapter II of the second round report included a detailed review of systems of government hiring (including those of career employees) in the executive, legislative, and judicial branches, as well as the prosecutorial arm of the Attorney General's Office, and that chapter II of this report took into account updated information in this area with regard to the oversight bodies within the framework of those branches of government (OA, AGN, and PJN, respectively) and the prosecutorial arm of the Office of the Attorney General (FIA), the Committee reiterates its observations with respect to each of the foregoing in chapter II of the second round report and chapter II of this report, and considers, therefore, that this second measure of recommendation 3 has been superseded insofar as the mechanisms that apply to career employees are concerned.

[323] Second, taking into account that the other elements of this second measure of recommendation 3 were the subject of an updated review in chapter II of this report with respect to each of the above-mentioned oversight bodies, and that chapter IV, section 1.2 of this report reviews the internal audit units, the Committee reiterates its observations in chapter II of this report regarding each of those bodies and in chapter IV, section 1.2 thereof with respect to the internal audit units. Accordingly, the Committee considers that this second measure of recommendation 3 has also been superseded where those elements and the internal audit units are concerned.

157. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 33 and 34.

158. Complete information on the Forum is available at: <http://www.fia.gov.ar/web/guest/foro-fias>

159. With respect to this measure, in the report from the second round the Committee noted Argentina's satisfactory consideration as regards the new judicial recognition of the capacity of the Anticorruption Office to bring cases. See page 46 of that report.

160. Argentina's response to the questionnaire on follow-up to the recommendations of the First Round, pp. 34-39.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11, OF THE CONVENTION)

4.1. Mechanisms for access to information

Recommendation:

Institute legal norms supporting public access to government information.

Sole measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Developing procedures for acceptance of requests, for response to requests in a timely fashion, for appeal procedures in the case of denials, and for penalties concerning failure to comply with obligations to provide information.^{161/}

[324] In its response,¹⁶² the country under review states: “the Argentine Republic does not have a federal law on access to public information, although many provinces have laws that support access to public information and govern the right of access to information.” Reference is made to Decree 1172/03 of 2003, which contains the “General Rules on Access to Public Information for the Federal Executive Branch” and the measures adopted to advance that decree by the Deputy Secretary for Institutional Reform and Strengthening of Democracy in the Office of the Chief of Staff of the Cabinet of Ministers and by the Anti-corruption Office. The country under review mentions that a “policy of open government” is being implemented in each ministry in the federal executive branch and that each jurisdiction has a web page that actively supplies public information and allows members of the public to seek assistance and submit applications. With respect to the federal judicial branch, it is stated that the Supreme Court of Justice has developed a web page (Judicial Information Center) that provides access to the latest information on the judicial branch. Finally, the response refers to the legislative branch and says that “both the Chamber of Deputies and the Senate have their respective web pages, where members of the public can obtain information about the latest developments, the composition of the houses, the various bills and the status of each, meetings, agendas, parliamentary statistics, the regulatory framework, community relations, and other aspects.”

[325] In the course of the on-site visit, a National Deputy mentioned that several bills on access to public information had been introduced and that one such was under discussion. She hoped that sufficient political will existed in Congress for its adoption. Another National Deputy also referred to the proposed law and said that it had passed its first reading. He also underscored the importance of having an access to public information code since at present there is only a decree that applies exclusively to the executive branch. Another National Deputy emphasized the need for such a code and underscored the technical suitability of the Anti-corruption office for developing its functions in that connection. The bills in this area that are currently before Congress were subsequently made available by the lead expert of Argentina to the MESICIC.¹⁶³

161. With respect to this measure, in the report from the second round the Committee took note of its satisfactory consideration, with regard to presidential decree 1172/03, the scope of which extends to the federal executive branch, which the Committee did not examine in substance. See page 47 of that report.

162. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 39-45.

163. The proposed laws are available for consultation on the MESICIC website under the section on Argentina (Fourth Round) (<http://www.oas.org/juridico/spanish/arg.htm>).

[326] First, the Committee notes with respect to this sole measure of recommendation 4.1 of this report that in the report from the Second Round, the Committee took note of its satisfactory consideration, “in relation to presidential decree No. 1172/03. Its scope of application extends to the federal Executive Branch, without getting into an analysis of its substance.”¹⁶⁴

[327] Second, the Committee takes note of the steps taken by the country under review to advance in its implementation of this sole measure of the recommendation contained in section 4.1 of this report, as reflected by the measures to which the country under review referred in its response and by the bills that were alluded to during the on-site visit. The Committee also notes the need for the state to continue to give attention to this measure, bearing in mind that it does not yet have a general framework in place on access to information (See sole measure in section 4.1 of Annex I of this report).

[328] In connection with the foregoing, the Committee believes it appropriate to keep in mind its observation in the first round report regarding mechanisms for access to information: “[T]he the Committee notes that Argentina has standards and measures like those mentioned in the preceding section for access to information. However, the Committee wishes to encourage the Republic of Argentina to make further progress by the adoption of a comprehensive system for freedom of information, and considers it significant that a bill on the subject has been drafted and is under consideration in Congress.”¹⁶⁵

[329] In addition, during the on-site visit, the civil society organization Citizen Power (*Poder Ciudadano*) mentioned that improvements were needed to the mechanisms for access to public information as there was no law in this area that applied to all three branches of government and that Decree 1172 of 2003 only applied to the executive branch and its enforcement needed to be strengthened.

4.2. Mechanisms for consultation

[330] The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

4.3. Mechanisms to encourage participation in public administration

[331] The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

4.4. Participation mechanisms for follow-up of public administration

Recommendation:

Strengthening and further implementing mechanisms that encourage civil society and nongovernmental organizations to participate in monitoring public administration

164. See p. 47 of the Report of the MESICIC Committee of Experts on Argentina from the Second Round.

165. Report of the MESICIC Committee of Experts on Argentina from the First Round, p.22.

First measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Promoting ways, where appropriate, for those who perform public functions to allow, facilitate, and assist civil society and nongovernmental organizations in developing activities to monitor their public acts.

[332] With respect to the aforementioned measure, in its response,¹⁶⁶ 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:

[333] With respect to the judicial branch, “the Supreme Court of justice has instituted an ‘open government’ policy.” “This is an initiative of the Supreme Court of Justice within the framework of a state policy aimed at encouraging on-line citizen participation in the administration of justice; it encourages transparency in the government’s activities and intensifies the Court’s ongoing efforts in the area of dissemination of and access to information.- Through its website (www.cij.gov.ar/gobiernoabierto) the Court provides the public with the necessary digital tools (including social networking sites, including Facebook and Twitter) to make inquiries and offer suggestions and opinions on the different areas involved in the provision of justice.”

[334] With respect to the federal executive branch, “all ministries in the executive branch, through their respective websites, offer mechanisms by which citizens can express their opinions and participate actively in public administration monitoring. For its part, the Anti-corruption Office continues to work with civil society organizations within the MESICIC framework, through its active participation in the Committee for Follow-up on Implementation of the Inter-American Convention against Corruption. The Committee was the first formal organization of its kind, within the framework of the countries that signed the Convention, set up by a group of civil society organizations that took the initiative to come together to monitor the treaty's implementation within the framework of the follow-up mechanism. Its members include a large number of reputable NGOs and professional associations, and its objective is “to take the necessary steps to promote, disseminate, and verify compliance with the Inter-American Convention against Corruption (IACC) on the part of the Argentine Republic.”¹⁶⁷

[335] In addition to the foregoing, in the response of Argentina to the questionnaire on oversight bodies, it provides information, *inter alia*, on cooperation agreements that the Administrative Investigations Office has concluded with the civil society organizations Institutions without Violence (*Instituciones sin Violencia*) and Citizen Power (*Poder Ciudadano*) (p. 104). The response also refers to AGN resolution 50/04, which states in one of its sections that “Presentation” is defined as any document transmitted or presented to the AGN by any physical or legal person alleging the

166. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 15-20.

167. The following publications may be consulted for more information: “*Convención Interamericana contra la Corrupción. Implementación de un eficaz instrumento internacional de lucha contra la corrupción*” [The Inter-American Convention against Corruption. Implementation of an effective international instrument in the fight against corruption] and “*Una experiencia de trabajo conjunto entre la sociedad civil y el sector público. Actuación de la Oficina Anticorrupción de la República Argentina en el marco de la Convención Interamericana contra la Corrupción y su mecanismo de seguimiento*” [A joint civil society-public sector initiative. Activities of the Anti-corruption Office of the Argentine Republic in the framework of the Inter-American Convention against Corruption and its follow-up mechanism], available, respectively, at the following links:

<http://www.anticorrupcion.gov.ar/Documentos/Libro%20CICC%20ed.pdf>

<http://www.anticorrupcion.gov.ar/RDM-NB-LA%20LEY-14112002.pdf>

illegitimacy, impropriety, or inadvisability of agreements, decisions, acts, or omissions by entities or bodies subject to the external oversight of this agency (p. 62). Finally, the response mentions that the Office of the Inspector General communicates with the public through social networking sites: Facebook (*Sigen Argentina*), YouTube, and LinkedIn (p. 43).

[336] Furthermore, it should be mentioned that the report prepared by the Committee for Follow-up on Implementation of the Inter-American Convention against Corruption and presented by the Inter-American Bar Association¹⁶⁸ mentions the following: “In preparing the sixth report, information was requested from different agencies in all three branches of government, different information sources available to the public were consulted, various studies produced by entities that belong to the Committee for Follow-Up were taken into account, and a large number of working meetings were held. Of the latter, particularly significant was the one held on March 27, 2012 between the Committee for Follow-Up and a select group of officials from the oversight bodies under review.”

[337] The Committee takes note of the satisfactory consideration by the country under review of the measure of the foregoing recommendation contained in section 4.4 of Chapter IV of this report.

Second measure:

[338] This measure was satisfactorily considered and, therefore, does not require additional attention.

5) ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

[339] Recommendations 5.1 and 5.2 on this section were satisfactorily considered and, therefore, do not require additional attention.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

[340] The Committee did not offer any recommendations in this section.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Developing, where appropriate and where they do not already exist, procedures for assessing the effectiveness of systems and mechanisms mentioned in this report.

[341] In its response,¹⁶⁹ the country under review notes in first place that, as a result of a “participatory rule-making process” organized by the Anti-corruption Office in 2003 to discuss a draft proposed law that it had prepared for amending the standards on public ethics, it was recommended that the following provision be included: “Each enforcement authority shall annually prepare and make available to the public and on the Internet, a report on its activities, which shall contain objective performance indicators.” The country also notes “this proposal was made in

168. Document “Committee for Follow-up on Implementation of the Inter-American Convention against Corruption”- “Sixth Report”, p. 3

169. Argentina’s response to the questionnaire on follow-up to the recommendations of the First Round, pp. 47-49.

response to the recommendations that the MESICIC Committee of Experts had made in February of that year to Argentina.”¹⁷⁰

[342] Second, the country under review says, “However, the Argentine Republic considers it advisable to propose a discussion at the plenary sessions held during this fourth MESICIC round on the specific technical characteristics that “procedures for assessing the effectiveness of systems and mechanisms” for fighting corruption should have in order to be effective and provide useful inputs for all stakeholders (government agencies, nongovernmental organizations, international organizations, academic institutions, etc.) in this area. This proposal is based on the challenges posed by developing such procedures and the technical difficulties of designing indicators capable of measuring the objective results of public policies aimed at preventing corruption. It is also proposed that an ad hoc committee be established in the framework of the MESICIC Committee of Experts to analyze comparative experiences in this area and prepare a report that could be used as a model by states parties to the Convention.”

[343] The Committee takes note of the steps taken by the country under review to advance in its implementation of the recommendation contained in section 7.1 of Chapter IV of this report, as reflected in the proposal of the Anti-corruption Office to include a provision on “objective performance indicators” in the public ethics standards. The Committee also notes the need for the state to continue to give attention to the above recommendation, bearing in mind that such a provision has yet to be included in the standards and that the above indicators have not yet been adopted (see the sole recommendation contained in section 7 of Annex I of this report).

[344] The Committee also takes note of the difficulties mentioned by the country under review for implementing this recommendation, as well as its proposals in that regard.

170. For more information in this regard, the country provides the following link on p. 48 of its response: <http://www.anticorrupcion.gov.ar/CUADRO%201-ORGANISMOS%20DE%20CONTROL.pdf>

ANNEX I

OUTSTANDING RECOMMENDATIONS REGARDING THE TOPICS REVIEWED IN THE FIRST ROUND

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Recommendation:

Strengthening implementation of laws and regulatory systems concerning conflicts of interest.

Measures suggested:

- a) Ensuring the effective enforcement of Law 25,188 for all employees and officials of the legislative and judicial branches and for those of the Prosecutor General's Office.
- b) Instituting appropriate post-employment restrictions.
- c) Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the non-existence of this Commission; or restructuring the legal and regulatory system to provide for appropriate mechanisms to enforce standards of conduct, including conflict of interest restrictions, for all civil servants.
- d) Expanding the coverage of sworn declarations of elected officials to include employment history.

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials

Recommendation:

Strengthening the internal and external control systems and utilizing effectively the information generated during audits.

Measure suggested:

- Ensuring that an effective control system exists for congressional oversight of the expenditure of public funds.

1.3. Standards of conduct and mechanisms concerning measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

2. SYSTEMS FOR REGISTRATION OF INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)

Recommendation:

Improving the systems for the timely collection, use, and public release of the financial disclosure reports.

Measures suggested:

- a) Resolving the discrepancy between the law establishing the National Commission on Public Ethics and the non-existence of this Commission; or restructuring the legal and regulatory systems to provide for mechanisms to enforce effectively the systems for registration of income, assets, and liabilities.
- b) Use sworn statements of net worth in the Legislature and Judiciary, and in the Office of the Attorney General of the Nation, to advise public officials on avoiding conflicts of interest, and to detect cases of illicit enrichment.¹⁷¹

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)

The Committee considered that the recommendation made in connection with this section is no longer valid and, therefore, does not require additional attention.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)

4.1. Mechanisms for access to information:

Recommendation:

Instituting legal norms supporting public access to government information.

Measure suggested:

- Developing procedures for acceptance of requests, for response to requests in a timely fashion, for appeal procedures in the case of denials, and for penalties concerning failure to comply with obligations to provide information.¹⁷²

4.2. Mechanisms for consultation

The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

171. With respect to this measure, in the report from the second round the Committee noted Argentina's satisfactory consideration as regards the actions taken by the Anticorruption Office. See page 46 of that report.

172. With respect to this measure, in the report from the second round the committee took note of its satisfactory consideration, with regard to presidential decree 1172/03, the scope of which extends to the federal executive branch, which the Committee did not examine in substance. See page 49 of that report.

4.3. Mechanisms to encourage participation in public administration

The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

4.4. Mechanisms for participation in the follow-up of public administration

The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

Recommendations 5.1 and 5.2 on this section were satisfactorily considered and, therefore, do not require additional attention.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

No recommendations were formulated by the Committee in this section.

7. GENERAL RECOMMENDATIONS

Recommendation:

- Developing, where appropriate and where they do not already exist, procedures for assessing the effectiveness of systems and mechanisms mentioned in this report.

ANNEX II
AGENDA FOR THE ON-SITE VISIT TO
ARGENTINA

Monday, October 15, 2012	
15:00 hrs. – 16:15 hrs. <i>El Conquistador Hotel</i>	Coordination meeting between representatives of the members states of the Subgroup and the Technical Secretariat.
16:15 hrs. – 17:30 hrs. <i>El Conquistador Hotel</i>	Coordination meeting between representatives of the country under review, the member states of the Subgroup and the Technical Secretariat.
Tuesday, October 16, 2012	
<i>Ministry of Foreign Affairs</i>	NOTE: Beginning on October 16, all meetings will be held at the Ministry of Foreign Affairs of Argentina (Palacio San Martín – “Antonio Berni” Conference room, 2nd Floor, Casa 1, Arenales 761, Buenos Aires).
8:30 hrs. – 12:30 hrs. <i>Ministry of Foreign Affairs</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, professional associations, academics or researchers.¹⁷³
	A) Oversight bodies <ul style="list-style-type: none">• Inter-institutional coordination• Resources available to perform their functions• Difficulties encountered in accomplishing their objectives• Detection and punishment of corrupt acts that trigger criminal responsibility B) Follow-up on the recommendations formulated in the First Round: <ul style="list-style-type: none">• Conservation of public resources• Sworn declarations of assets, liabilities and net worth• Access to public information• Participation in the follow-up of public administration
	<u>Participants:</u>

173. The civil society organizations *Inter-American Bar Association* and the *Forum of Studies on the Administration of Justice* are participating in these meetings in accordance with provision 26 of the *Methodology for Conducting On-Site Visits*, because they presented documents with specific and direct information relevant to the Questionnaire for the Fourth Round of Review, as required in Article 34(b) of the *Rules of Procedure of the Committee*. It is suggested to invite these organizations and individuals in accordance with provision 27 of the *Methodology for Conducting On-Site Visits*, which allows for the participation in these meetings of “civil society organizations and/or, inter alia, private sector organizations, professional associations, academics, or researchers.”

	<p><i>Follow-up Commission on Compliance with the Inter-American Convention against Corruption, presented by the Inter-American Bar Association</i> Dr. Ángel Bruno (Coordinator of the Follow-Up Commission. Member of the Council of the Inter-American Bar Association (IABA) and President of the Institutional Forum of the Legal Profession of the IABA. Member of the Lawyer Association of Buenos Aires). Dr. Pedro Etcheverrigaray (Advisor to the Follow-Up Commission) Dr. Patricia Bustamante Quintero (Advisor to the Follow-Up Commission) Dr. Nicolás Raigorodsky (Advisor)</p> <p><i>Professional Council of Economic Sciences of Buenos Aires (CPCECABA)</i> Dr. Edgardo Strupeni (Representative of the CPCECABA before the Follow-Up Commission on Compliance with the Inter-American Convention against Corruption)</p> <p><i>University of Buenos Aires – Faculty of Law</i> Dr. Alejandro Gómez (Secretary of Finance for the Faculty of Law and representative of the University before the Follow-Up Commission)</p> <p><i>Civil Association for Equality and Justice</i> Dr. Ezequiel Nino (Executive Secretary) Dr. María Victoria Gama (Attorney, Anticorruption Area)</p> <p><i>Investigative Center on the Prevention of Economic Criminality</i> Dr. Cecilia Vázquez (Coordinator)</p> <p><i>Forum of Studies on the Administration of Justice</i> Dr. Marcelo Octavio de Jesús (President) Dr. Silvia Pensi (Institutional Relations) Dr. Fernando Aguilar (Executive Committee) Dr. Diego Bunge (Executive Committee) Dr. Gonzalo Ariel Viña (Investigator) Dr. Manuel García Reynoso (Investigator)</p> <p><i>Citizen Power Foundation (Argentine Chapter of Transparency International)</i> Mr. Pablo Secchi (Executive Director)</p> <p><i>Center for the Implementation of Public Policy for Equity and Growth</i> Ms. Ana Pichón Riviere (Coordinator for the Justice Program)</p>
12:30 hrs. - 14:00 hrs.	Lunch

14:00 hrs. – 18:00 hrs. <i>Ministry of Foreign Affairs</i>	The Judicial Branch of the Nation (PJN)
14:00 hrs. – 16:00 hrs.	<p>Panel 1: The Judicial Branch of the Nation (PJN):</p> <ul style="list-style-type: none">• Brief presentation on its objectives and functions in the detection and punishment of corrupt acts that trigger criminal responsibility• Coordination mechanisms for harmonizing its functions with those of other oversight bodies or public authorities• Resources to enable it to perform its functions.• Difficulties encountered in discharging its functions• Results obtained in the performance of its duties• Institutional strengthening <p><u>Participants:</u></p> <p><i>National Chamber of Criminal Appeals in the Federal Capital</i> Dr. Jorge Luis Rimondi (First Vicepresident)</p> <p><i>National Chamber of Criminal Cassation – Chamber IV</i> Dr. Juan Carlos Gemignani (Vicepresident) Nadia Samaha (Investigation Board Secretary for Dr. Gemignani)</p> <p><i>Federal Criminal Court No 4.</i> Ariel Oscar Lijo, Judge</p> <p><i>Secretariat for Legal Affairs (PJN)</i> Luis A. Devoto (Secretary)</p> <p><i>General Administration for the PJN</i> Germán Krieger (General Administrator for the PJN)</p> <p><i>Center for Judicial Information</i> <i>Supreme Court of Justice of the Nation</i> María Bourdin (General Director) Pablo Méndez (Assistant General Director)</p> <p><i>Magistrate Council of the Nation</i> Dr. Mario Fera (Vicepresident) Raúl F. Spano (Assistant General Director for Finance, Accountability and Budget)</p> <p><i>Legislative Branch:</i> National Deputy Laura Alonso</p>

<p>16:00 hrs. – 18:00 hrs.</p>	<p>Panel 2: Follow-up on the recommendations formulated in the First Round:</p> <ul style="list-style-type: none"> • Preventing conflicts of interests • Sworn declarations of assets, liabilities and net worth <p><u>Participants:</u></p> <p><i>National Chamber of Criminal Appeals in the Federal Capital</i> Dr. Jorge Luis Rimondi (First Vicepresident)</p> <p><i>National Chamber of Criminal Cassation – Chamber IV</i> Dr. Juan Carlos Gemignani (Vicepresident) Nadia Samaha (Investigation Board Secretary for Dr. Gemignani)</p> <p><i>Federal Criminal Court No 4.</i> Ariel Oscar Lijo, Judge</p> <p><i>Secretariat for Legal Affairs (PJN)</i> Luis A. Devoto (Secretary)</p> <p><i>General Administration for the PJN</i> Germán Krieger (General Administrator for the PJN)</p> <p><i>Center for Judicial Information</i> <i>Supreme Court of Justice of the Nation</i> María Bourdin (General Director) Pablo Méndez (Assistant General Director)</p> <p><i>Magistrate Council of the Nation</i> Dr. Mario Fera (Vicepresident) Raúl F. Spano (Assistant General Director for Finance, Accountability and Budget)</p> <p><i>Legislative Branch:</i> National Deputy Laura Alonso</p>
<p>18:30 hrs. <i>Hotel</i></p>	<p>Informal meeting¹⁷⁴ between the representatives of the member states in the Subgroup and the Technical Secretariat</p>
<p>Wednesday, October 17, 2012</p>	
<p>8:30 hrs. – 12:30 hrs. <i>Ministry of Foreign Affairs</i></p>	<p>Inspector General of the Nation (SIGEN)</p>
<p>8:30 hrs. – 11:00 hrs.</p>	<p>Panel 3: Inspector General of the Nation:</p>

174. The second paragraph of item 20 of the *Methodology for Conducting On-Site Visits* states, “At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings.”

	<ul style="list-style-type: none"> • Brief presentation on its objectives, functions and structure • Scope of its functions and the coordination mechanisms for harmonizing its functions with those of other oversight bodies or public authorities • Resources to enable it to perform its functions. • Difficulties encountered in accomplishing its objectives • Results obtained in the performance of its duties • Institutional strengthening <p><u>Participants:</u></p> <p><i>Inspector General of the Nation</i> Dr. Daniel Gustavo Reposo</p> <p><i>Strategic Planning Management of the SIGEN</i> Mr. Arturo Papazian (Manager)</p>
<p>11:00 hrs. – 12:30 hrs.</p>	<p>Panel 4: Follow-up on the recommendations formulated in the First Round:</p> <ul style="list-style-type: none"> • Conservation of public resources <p><u>Participants:</u></p> <p><i>Inspector General of the Nation</i> Dr. Daniel Gustavo Reposo</p> <p><i>Strategic Planning Management of the SIGEN</i> Mr. Arturo Papazian (Manager)</p>
<p>12:30 hrs – 14:00 hrs.</p>	<p>Lunch</p>
<p>14:00 hrs. – 18:00 hrs. <i>Ministry of Foreign Affairs</i></p>	<p>Office of the Auditor General of the Nation (AGN)</p>
<p>14:00 hrs. – 16:30 hrs.</p>	<p>Panel 5: Office of the Auditor General of the Nation:</p> <ul style="list-style-type: none"> • Brief presentation on its objectives, functions and structure • Scope of its functions and the coordination mechanisms for harmonizing its functions with those of other oversight bodies or public authorities • Resources to enable it to perform its functions. • Difficulties encountered in accomplishing its objectives • Results obtained in the performance of its duties • Institutional strengthening <p><u>Participants:</u></p>

	<p><i>President of the AGN</i> Dr. Leandro Despouy</p> <p><i>Auditor General</i> Dr. Vicente M. Brusca María Laura Winter (Chief of the Cabinet of Advisors to Auditor General Brusca) Darío Cosenza (Cabinet Advisor to Auditor General Brusca)</p> <p><i>Auditor General</i> Dr. Horacio Pernasetti</p> <p><i>Cabinet Advisor to Auditor General Auditor General Alejandro Nieva</i> Mabel Padilla</p> <p><i>Office of the Auditor General of the Nation</i> Dr. Ricardo Sánchez (Legal and Institutional Secretary) Jorge Lizano (Assistant Manager for Administration and Finances) Gerardo Prataviera (Manager for Planning and Special Projects)</p>
16:30 hrs. – 18:00 hrs.	<p>Panel 6: Follow-up on the recommendations formulated in the First Round:</p> <ul style="list-style-type: none">• Conservation of public resources• Sworn declarations of assets, liabilities and net worth <p><u>Participants:</u></p> <p><i>President of the AGN</i> Dr. Leandro Despouy</p> <p><i>Auditor General</i> Dr. Vicente M. Brusca María Laura Winter (Chief of the Cabinet of Advisors to Auditor General Brusca) Darío Cosenza (Cabinet Advisor to Auditor General Brusca)</p> <p><i>Auditor General</i> Dr. Horacio Pernasetti</p> <p><i>Cabinet Advisor to Auditor General Auditor General Alejandro Nieva</i> Mabel Padilla</p> <p><i>Office of the Auditor General of the Nation</i> Dr. Ricardo Sánchez (Legal and Institutional Secretary) Jorge Lizano (Assistant Manager for Administration and Finances)</p>

	Gerardo Prataviera (Manager for Planning and Special Projects)
Thursday, October 18, 2012	
18:30 hrs. <i>Hotel</i>	Informal meeting between representatives of the member states in the Subgroup and the Technical Secretariat
8:30 hrs. – 12:30 hrs. <i>Ministry of Foreign Affairs</i>	Office of the Prosecutor for Administrative Investigations (FIA)
8:30 hrs. – 11:00 hrs.	<p>Panel 7: The Office of the Prosecutor for Administrative Investigations:</p> <ul style="list-style-type: none"> • Brief presentation on its objectives, functions and structure • Scope of its functions and the coordination mechanisms for harmonizing its functions with those of other oversight bodies or public authorities • Resources to enable it to perform its functions. • Difficulties encountered in accomplishing its objectives • Results obtained in the performance of its duties • Institutional strengthening <p><u>Participants:</u></p> <p><i>Attorney General of the Nation</i> Dr. Alejandra Gils Carbó</p> <p><i>Office of the Attorney General</i> Dr. Luis Villanueva (Advisor of the Office of the Attorney General of the Nation)</p> <p><i>Office of the Prosecutor for Administrative Investigations</i> Dr. Guillermo Felipe Noailles (Prosecutor responsible for the FIA)</p> <p><i>Legislative Branch:</i> National Deputy Manuel Garrido Eugenia Braguinsky (Cabinet Advisor to National Deputy Garrido)</p> <p>Panel 8: Follow-up on the recommendations formulated in the First Round:</p> <ul style="list-style-type: none"> • Preventing conflicts of interest • Sworn declarations of assets, liabilities and net worth <p><u>Participants:</u></p> <p><i>Attorney General of the Nation</i> Dr. Alejandra Gils Carbó</p>
11:00 hrs. – 12:30 hrs.	

	<p><i>Office of the Attorney General</i> Dr. Luis Villanueva (Advisor of the Office of the Attorney General of the Nation)</p> <p><i>Office of the Prosecutor for Administrative Investigations</i> Dr. Guillermo Felipe Noailles (Prosecutor responsible for the FIA)</p> <p><i>Legislative Branch:</i> National Deputy Manuel Garrido Eugenia Braguinsky (Cabinet Advisor to National Deputy Garrido)</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs – 17:30 hrs. <i>Ministry of Foreign Affairs</i>	Anticorruption Office (OA)
14:00 hrs. – 16:30 hrs.	<p><u>Participants:</u></p> <p><i>Prosecutor for Administrative Oversight of the OA</i> Dr. Julio Fernando Vitobello</p> <p><i>Director of Investigations of the OA</i> Dr. Claudia Sosa</p> <p><i>Director for Transparency Policy Planning of the OA</i> Mr. Gerardo Serrano</p> <p><i>Deputy Director for Transparency Policy Planning of the OA</i> Dr. Néstor Baragli <i>(Lead Expert for Argentina to the MESICIC)</i></p> <p><i>Deputy Director of Investigations of the OA</i> Dr. Luis Arocena</p> <p><i>Principal Analyst, Office for Transparency Policy Planning (DPPT) of the OA</i> Dr. Laura Geler <i>(Alternate Experto for Argentina to the MESICIC)</i></p> <p><i>Coordinator for the Conflicts of Interest Area – DPPT-OA</i> Dr. Pedro Martín Bardi</p> <p><i>Office of Investigations -OA</i> Dr. Juan García Elorrio (Coordinator)</p> <p><i>Coordinator for Transparency in Procurement and Contracting Area – DPPT-OA</i> Dr. Gabriel Rolleri</p>

	<p><i>Coordinator for the Unit of Oversight and Monitoring of Sworn Declarations – DPPT-OA</i> Dr. Maximiliano Flammá</p> <p><i>Legislative Branch:</i> National Deputy Laura Alonso National Deputy Carlos Raimundi National Deputy Manuel Garrido Eugenia Braguinsky (Cabinet Advisor to National Deputy Garrido) Agustina Carril (Chief of Staff for National Deputy Gustavo Ferrari)</p>
16:30 hrs. – 17:30 hrs.	<p><u>Participants:</u></p> <p><i>Prosecutor for Administrative Oversight of the OA</i> Dr. Julio Fernando Vitobello</p> <p><i>Director of Investigations of the OA</i> Dr. Claudia Sosa</p> <p><i>Director for Transparency Policy Planning of the OA</i> Mr. Gerardo Serrano</p> <p><i>Deputy Director for Transparency Policy Planning of the OA</i> Dr. Néstor Baragli <i>(Lead Expert for Argentina to the MESICIC)</i></p> <p><i>Deputy Director of Investigations of the OA</i> Dr. Luis Arocena</p> <p><i>Principal Analyst, Office for Transparency Policy Planning (DPPT) of the OA</i> Dr. Laura Geler <i>(Alternate Experto for Argentina to the MESICIC)</i></p> <p><i>Coordinator for the Conflicts of Interest Area – DPPT-OA</i> Dr. Pedro Martín Bardi</p> <p><i>Office of Investigations -OA</i> Dr. Juan García Elorrio (Coordinator)</p> <p><i>Coordinator for Transparency in Procurement and Contracting Area – DPPT-OA</i> Dr. Gabriel Rolleri</p> <p><i>Coordinator for the Unit of Oversight and Monitoring of Sworn Declarations – DPPT-OA</i> Dr. Maximiliano Flammá</p>

	<i>Legislative Branch:</i> National Deputy Laura Alonso National Deputy Carlos Raimundi National Deputy Manuel Garrido Eugenia Braguinsky (Cabinet Advisor to National Deputy Garrido) Agustina Carril (Chief of Staff for National Deputy Gustavo Ferrari)
17:30 hrs.	Informal meeting between the representatives of the member states in the Subgroup and the Technical Secretariat
18:00 hrs.	Final meeting ¹⁷⁵ with representatives of the country under review, the representatives of member states in the Subgroup and the Technical Secretariat.

175. The third paragraph of item 20 of the *Methodology for Conducting On-Site Visits* reads as follows: “At the end of the on-site visit, a meeting shall be held, to be attended by the Subgroup experts, the Technical Secretariat, and the Lead Expert of the country under review and/or the official appointed in his place in accordance with provision 10, second paragraph, of this Methodology. That meeting shall identify, if necessary, the information that, exceptionally, the country under review is still to submit through the Technical Secretariat and the deadline within which it is to do so, and it shall also coordinate any other pending matters arising from the on-site visit.”

**CONTACT AUTHORITY FROM THE COUNTRY UNDER REVIEW FOR
COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE
MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP AND THE
TECHNICAL SECRETARIAT OF THE MESICIC**

COUNTRY UNDER REVIEW:

ARGENTINA

Néstor Baragli

Lead Expert to the Committee of Experts of the MESICIC
Deputy Director for Transparency Policy Planning of the Anti-Corruption Office

Laura Geler

Alternate Lead Expert to the Committee of Experts of the MESICIC
Senior Analyst – Transparency Policy Planning Division of the Anti-Corruption Office

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

GUATEMALA

Verónica Taracena Gil

Lead Expert to the Committee of Experts of the MESICIC
Secretary of Oversight and Transparency - Guatemala

SURINAME

Rolinne Y. Gravenbeek

Lead Expert to the Committee of Experts of the MESICIC
Public Prosecutor at the Attorney-General's Office at the Court of Justice of the Republic of
Suriname

TECHNICAL SECRETARIAT OF THE MESICIC

Enrique Martínez

Principal Legal Officer, Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Laura Martínez

Senior Legal Officer, Department of Legal Cooperation
OAS Secretariat for Legal Affairs