

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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REPUBLIC OF HONDURAS

FINAL REPORT

(Adopted at the March 22, 2013 Plenary Session)

SUMMARY

This report contains a comprehensive review of the implementation in the Republic of Honduras 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 Honduras in 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 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 Honduras’ 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 2 and 4, 2012, by the members of the review subgroup for Honduras, comprising Nicaragua and Paraguay, with the support of the Technical Secretariat. During that visit, the information furnished by Honduras was clarified and expanded and the opinions of civil society organizations, the private sector, professional associations, academics, and researchers on issues of relevance to the review were heard. This provided the Committee with objective and complete information on those topics, assisted with the gathering of information on practices, and provided Honduras with the opportunity to offer and/or request technical assistance for the purposes of the Convention.

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 Honduran oversight bodies were studied for this report: the Superior Court of Accounts (TSC), the Public Prosecution Service (MP), the office of the Attorney General of the Republic (PGR), the Judicial Branch (PJ), and the National Banking and Insurance Commission (CNBS).

The recommendations formulated for consideration by Honduras in connection with these agencies were geared toward objectives that included the following:

For the TSC, strengthened institutional coordination, recognition of electronic signatures on sworn statements, and strengthening the institution by providing it with the human and budgetary resources to ensure full compliance with its tasks of preventing, detecting, and investigating acts of corruption.

For the MP, strengthened institutional coordination, the creation and training of a unit of police officers specialized in corruption offenses to act in coordination with the MP in investigating those offenses, protection for prosecutors in discharging their corruption investigation and prosecution duties, and expediting the processing of cases.

For the PGR, implementation of obligatory merit-based competitions and of a career service, strengthened interinstitutional coordination, a strategic planning process, and the resolution of conflicts of jurisdiction with other agencies.

For the Judicial Branch (PJ), the creation of specialized courts for corruption cases, training judges in the appraisal of evidence in corruption cases, strengthened interinstitutional coordination, and unified criteria at courts for appraising the TSC's auditing reports as evidence in corruption cases.

For the CNBS, the development of a mechanism to follow up on criminal proceedings based on the information the agency submits to the judicial system, the creation of a standardized form for the financial information that banking institutions are required to submit, and strengthened interinstitutional coordination.

The good practices regarding which Honduras furnished information involve, in summary, the preparation of a strategy to connect the public more closely with the specific oversight work of the Superior Court of Accounts by means of two mechanisms: first, by receiving, evaluating, and processing citizens' complaints, and, second, through the participation of citizens and civil society organizations in auditing processes.

Regarding follow-up on the recommendations formulated for Honduras in the First Round and regarding which the Committee found that additional attention was required in the Second Round report, based on the methodology for the Fourth Round and bearing in mind the information provided by Honduras in its reply to the questionnaire and during the on-site visit, it was determined which of those recommendations had been satisfactorily implemented, which required additional attention, and which required reformulating. A list of those still current was also prepared, which can be found in Annex I of this report.

Some of the recommendations extended to Honduras in the First Round that remain in force or that were reformulated deal with such topics as strengthening the Public Information Access Institute (IAIP) continued application of measures for the establishment of appropriate restrictions for those who leave public service or have concluded a consultancy contract with a public agency, such as a ban on involvement in cases in which they played a part on account of that position or with agencies with which they had recent ties, the creation of mechanisms to punish violators, and the establishment of mechanisms to select the personnel of internal auditing units.

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

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF HONDURAS 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. Contents of the Report

[1] This report presents, first, a comprehensive review of the Republic of Honduras' 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 country under review 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 the Republic of Honduras in the First Round and that it deemed to require to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which are available at: <http://www.oas.org/juridico/english/hnd.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, the Republic of Honduras ratified the Inter-American Convention against Corruption on May 25, 1998, and deposited the respective instrument of ratification on June 2 of that year.

[5] In addition, the Republic of Honduras signed the Declaration on the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption on December 8, 2001.

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Republic of Honduras

[6] The Committee wishes to acknowledge the cooperation that it received, throughout the review process from the Republic of Honduras and in particular from the Superior Court of Accounts (TSC), 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, Honduras sent the provisions and

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 Twentieth First Meeting of the Committee, held at OAS headquarters in Washington, D.C., from March 18 to 22, 2013.

documents it considered pertinent. The Response as well as the provisions and documents may be consulted at: http://www.oas.org/juridico/spanish/mesicic4_hnd.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 Nicaragua and Paraguay, conducted the on-site visit from October 2 to 4, 2012, with the support of the MESICIC Technical Secretariat. The information obtained on that visit is included in the appropriate sections of this report, and its agenda of meetings is appended 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 Honduras up to October 4, 2012, as well as that provided 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/english/FightCur.html>

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 established in the Schedule for the Fourth Round, documents jointly prepared by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” which were submitted by these civil society organizations pursuant to article 34(b) of the Rules of Procedure and Other Provisions of the Committee.³

[10] Similarly, during the on-site visit to the country under review from October 2 to 4, 2012, information was gathered from civil society and private sector 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*. This information is reflected in the appropriate sections of this report.

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

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

[11] The Republic of Honduras has a series of oversight bodies for implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts, including the

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. Estos documentos se recibieron por vía electrónica el 7 de junio de 2012 y se encuentran disponibles en http://www.oas.org/juridico/spanish/mesicic4_hnd.htm

following: the Superior Court of Accounts (TSC), the Public Prosecution Service (MP), the Office of the Attorney General of the Republic (PGR), the Judicial Branch (PJ), the National Banking and Insurance Commission (CNBS), the National Office for the Integral Development of Internal Oversight (ONADICI), and the Executive Directorate of Revenue (DEI).

[12] The following paragraphs offer a brief description of the purposes and functions of the five agencies selected by the Republic of Honduras that are to be analyzed in this report.

[13] The Superior Court of Accounts (TSC) is the lead agency of the oversight system for public resources and is responsible for the post-facto oversight of the funds, assets, and resources administered by the agencies of the State, decentralized and deconcentrated institutions, including banks (state-owned and mixed), the National Banking and Insurance Commission, municipalities, and any other special agency or public or private body that receives or handles public resources from internal or external sources. In discharging its tasks, it must perform financial, managerial, and results-based oversight, based on efficiency and effectiveness, economy, equity, truthfulness, and legality. It is also responsible for the establishment of a system for transparency in the management of public servants, identifying illicit enrichment, and controlling the State's assets, liabilities, and property in general (Constitution, Article 222).

[14] The Public Prosecution Service is a body with functions that include representing, defending, and protecting the interests of society; fighting drug trafficking and all forms of corruption; investigating, ensuring, and deciding on the ownership and integrity of national assets for public use, and on the legal, rational, and correct use of state assets transferred to private citizens; and, when appropriate, bringing the corresponding legal actions. Since 1994, it has a Special Anticorruption Prosecutor (Law of the Public Prosecution Service, Article 1).

[15] The Office of the Attorney General of the Republic, in accordance with its constitutional and legal powers, represents the State legally and is responsible for pursuing civil actions arising from the oversight activities of the Superior Court of Accounts, for bringing criminal action in cases of fiscal fraud and contraband, and for other actions with which it is charged as the defender of the interests of the State (Constitution, Articles 228 and 230).

[16] The Judicial Branch, pursuant to its constitutional powers, is tasked with applying the law to specific cases, with judging, and with executing its judgments. As a part of those tasks, it hears cases involving crimes and misdemeanors committed in the territory over which it has jurisdiction, including those related to illicit enrichment, abuses of authority, fraud of public funds, etc. (Constitution, Article 304).

[17] The powers and duties of the National Banking and Insurance Commission include reviewing, verifying, controlling, overseeing, and monitoring the institutions it supervises; prohibiting the pursuit of operations or functions, the provision of services, or the sale of financial or insurance products that violate laws or that could endanger the stability of supervised institutions; imposing the corresponding sanctions and fines for the offenses committed by supervised institutions; and, when legally admissible, ordering the intervention, liquidation, or closure of those institutions (National Banking and Insurance Commission Law, Article 13).

1. SUPERIOR COURT OF ACCOUNTS (TSC)

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

[18] The Superior Court of Accounts (TSC) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[19] Article 222 of the Constitution states that the Superior Court of Accounts (TSC) is the lead agency of the public resource oversight system, that it enjoys functional and administrative autonomy from the branches of government, and that it is subject solely to compliance with the Constitution and the law. It is responsible to the National Congress for the actions taken in the exercise of its functions.

[20] Regarding its objectives and functions, Article 22 of the Constitution also states that the TSC's functions include the post-facto oversight of the funds, assets, and resources administered by the agencies of the State, decentralized and deconcentrated institutions, including banks (state-owned and mixed), the National Banking and Insurance Commission, municipalities, and any other special agency or public or private body that receives or handles public resources from internal or external sources. In discharging its tasks, it must perform financial, managerial, and results-based oversight, based on efficiency, effectiveness, economy, equity, truthfulness, and legality. It is also responsible for the establishment of a system for transparency in the management of public servants, identifying illicit enrichment, and controlling the State's assets, liabilities, and property in general.

[21] In addition, Article 7 of the Organic Law of the Superior Court of Accounts (LOTSC) states that the institution's goals are to direct, guide, organize, execute, and supervise the control system regulated by that law. Thus, it is essentially responsible for the oversight of economic and financial matters, of management and results, of public probity and ethics, and of state property.

[22] Article 5 of the LOTSC indicates the persons subject to its provisions, without exception, including public servants who receive, safeguard, manage, and assign state funds and assets; the central public administration; deconcentrated institutions; the decentralized public administration, including autonomous and semiautonomous agencies and municipalities; the legislature and judiciary, and their agencies and offices; the Public Prosecution Service, the Office of the Attorney General of the Republic, the National Elections Tribunal, the Superintendency of Concessions, the National Human Rights Commissioner, the Office of the Environmental Attorney, and other agencies created by law, decree, or executive agreement; contractors and holders of concessions, permits, and licenses for infrastructure and public service and property projects of the State, municipalities, and other state corporate bodies, as regards the corresponding contract, concession, permit, or license; nonstate bodies and individuals and legal entities of any kind that receive, manage, use, or assign, in any way or form, resources, assets, or funds from the State or from public collections, together with mixed-capital companies and partnerships, irrespective of their legal nature, in which the State is involved, but limited to the management of such resources; individuals and corporations that enjoy fiscal or municipal dispensations or waivers, as regards use for the goal or purpose of that dispensation or waiver; trusts established with state funds or assets; privatization processes and the disposal of funds earned thereby; and all others identified by law or that, in accordance with the nature and purpose of the Tribunal, are covered by its oversight functions.

[23] As regards the performance of functions in conjunction or concert with other agencies or authorities, Article 50 of the LOTSC states that if, as a result of their functions, internal auditing units

discover incidents that could lead to administrative responsibilities, they are to communicate that circumstance to the head of the entity or body for the corresponding corrective measures to be issued and to follow up on the decisions adopted and that, should the necessary measures not be adopted or enforced, the internal auditing unit is to report that situation to the TSC within no more than fifteen days. In addition, when an examination of actions or facts leads to indications of civil or criminal responsibility, the agency's internal auditor shall inform the TSC, which shall in turn inform the office of the Attorney General of the Republic for the relevant civil actions to be taken, and the Public Prosecution Service or the Attorney General of the Republic, when applicable, for the relevant criminal action.

[24] Regarding mechanisms for resolving any conflicts of jurisdiction, during the on-site visit the TSC noted that Article 10 of the Law on Administrative Procedure states that such cases are to be resolved by the Cabinet.

[25] The TSC is a part of the Interinstitutional Anticorruption Coordination of Honduras (CIAH), which is made up of authorities representing the Supreme Court of Justice (CSJ), the National Human Rights Commissioner (CONADEH), the National Anticorruption Council (CNA),⁴ the Public Information Access Institute (IAIP), the Public Prosecution Service (MP), the office of the Attorney General of the Republic (PGR), and the TSC itself. For this, the CIAH has its own Basic Rules of Operation, signed by the institutions listed above.⁵

[26] The TSC also has interinstitutional coordination agreements with the MP, the PGR, the DEI, the CNBS, and other agencies.

[27] The TSC's decisions are taken on a joint basis, in accordance with the procedure established in Article 11 of the LOTSC.

[28] Article 223 of the Constitution states that the TSC is made up of three members elected by the National Congress, which also elects the President of the TSC. The TSC's members hold office for seven years and may not be reelected.

[29] The body responsible for holding the members of the TSC to account is the National Congress, which may suspend their duties or dismiss them from their positions as judges, pursuant to Articles 17 and 18 of the LOTSC.

[30] As regards the way in which the human resources for its operations are selected, the TSC is subject to the Career Regime for Officers and Employees of the Superior Court of Accounts, in compliance with Article 21 of the LOTSC, which creates the Career for Officers and Employees of the Court using a merit-based system that is applicable in all parts of the Republic where the Court has operations centers or regional offices (Article 3). The Career Regime regulates the organization of competitions, the obligation of issuing a Post Manual, entry requirements, those ineligible for service, duties, incompatibilities, bans, and rights, public competitions, and judicial controversies (Articles 21, 22, 23, 24, 25, 28, 29, and 43 to 60 of the Career Regime, and 30 and 31 of its Rules of Procedure).

4. The CNA is a body that supports the TSC with the collaboration of civil society organizations, pursuant to Article 71 of the LOTSC, titled "Citizen Collaboration."

5. See

<http://www.iaip.gob.hn/pdf/Marco%20Juridico%20Conceptual%20de%20la%20CIAH/Normas%20Basicas%20de%20Funcionamiento%20de%20la%20Coordinacion%20Interinstitucional%20Anticorrupcion%20de%20Honduras.pdf>.

[31] The TSC has a post classification and wages manual that describes staff functions and hiring requirements; a recruitment and selection manual, Administrative Agreement TSC-045/2003 (amended); and the Organizational Structure of the Superior Court of Accounts. It also has procedural manuals and quality management mechanisms.⁶ During the on-site visit it was also reported that induction courses are held for newly hired officers and, in addition, that the personnel receive training on their duties.

[32] As for technological systems, the Court has resources such as the Remote System for Human Resource Oversight (SIDJIAP RRHH), Systems for Obligated Subjects, a Training Module, a Recommendation Follow-up System (SISERA), an Integrated System for Sworn Statements of Income, Assets, and Liabilities (SIDJIAP), a Monitoring System for Oversight of Internal Auditing Units, a System for Follow-up of Budget Execution, Citizen Participation Information Systems, and others.⁷

[33] The TSC provides the public with information on its objectives and functions through its web page; it also has a public information officer for dealing with requests for information under the Law on Access to Public Information (LAIP). In addition, it disseminates information on its functions and procedures through training events organized by the Directorate of Citizen Participation,⁸ and it has a tutorial video on how to file complaints using the Citizen Complaint Attention System on its web page, in addition to the *Complainant's Information Guide* and the *Practical Handbook for the Promotion of Citizen Participation and Transparency in the Public Administration of Honduras*.⁹

[34] As regards internal controls, the disciplinary regime is set out in Chapter X (Articles 71 to 88) of the Career Regime for Officers of the Superior Court of Accounts. Under those rules, offenses committed by employees of the TSC are to be punished according to their seriousness and they are classified as slight, moderately serious, and serious (Article 72); the applicable sanctions range from private admonishments up to dismissal, depending on the seriousness of the case (Article 76), with the regime for dismissals covered by Articles 77 to 88.

[35] The TSC also has a Committee on Probity and Civic Ethics, which is governed by the regulations for the establishment and operations of Committees of Probity and Civic Ethics.¹⁰ The objective of these committees is to promote a culture of probity and ethics within each public-sector agency or entity and to hear cases of breaches of the standards of conduct established in the corresponding institution or indicated by the Court (Article 5). For this, the Committee receives complaints from the public, or it may conduct ex officio investigations (Articles 12 and 13).

[36] Thus, the TSC is governed by the Code of Ethical Conduct of Public Servants (CCESP), which sets out a series of duties, bans, and incompatibilities that apply, without exception, to all persons performing public functions in all branches of government and state bodies and institutions, regardless of level or hierarchy, whether on a permanent or temporary basis, by popular election, appointment, competition, or any other legal means.¹¹

6. See http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

7. Response of the Republic of Honduras to the questionnaire, p. 15.

8. Document submitted by the civil society organizations "Association for a More Just Society (ASJ)," "Federation of Private Organizations for the Development of Honduras (FOPRIDEH)," and "Civil Society Group (GSC)," p. 24.

9. Response of the Republic of Honduras to the questionnaire, p. 16.

10. TSC Administrative Agreement No. 005/2006.

11. See

http://www.tsc.gob.hn/Normativa%20Vigente/CODIGO_DE_CONDUCTA_ETICA_DEL_SERVIDOR_PUBLICO.pdf.

[37] The Probity and Public Ethics Committees, which exist under Article 53 of the LOTSC or similar provisions, are responsible for conducting investigations – be they special, ex officio, or at the request of a third party – when, in their opinion, there is credible evidence of violation of the CCESP; they are also responsible for imposing, assessing, and enforcing sanctions, in accordance with the legal provisions in force. When an institution does not have a Probity and Public Ethics Committee or similar body, those functions are performed by the head of the institution in question, in collaboration with the corresponding Internal Auditing Unit (Article 28, CCESP).

[38] The TSC has established the Citizen Complaint Attention System to deal with the public's complaints regarding irregular actions on the part of public servants and/or people who handle state funds; it functions under the responsibility of the Department of Control and Follow-up of Complaints of the TSC's Directorate of Citizen Participation.¹²

[39] The TSC also has a Internal Auditing Unit: a body for verification, assurance, and consultation, designed to add value and improve the Court's operations and to provide an objective, independent, systematic, and disciplined approach to improve its efficiency and effectiveness, which is governed by the Internal Auditing Regulations.¹³

[40] The TSC's resources are guaranteed by the funds assigned in the General Budget of the Republic.

[41] As regards accountability, the TSC's President must present its annual management report to Congress within the first forty (40) days after the close of the financial year (Constitution, Article 226). The management reports are published on the Court's web page. The TSC is also called on by Congress to report at "Public Budget Hearings."¹⁴

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

[42] The Superior Court of Accounts (TSC) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in Section 1.1 of this report. Nevertheless, the Committee deems it appropriate to make a number of observations in relation thereto:

[43] First, the Committee notes that public servants in Honduras are subject to the Code of Ethical Conduct of Public Servants (CCESP), which applies to all persons performing public functions in all branches of government and state bodies and institutions, regardless of level or hierarchy, whether on a permanent or temporary basis, by popular election, appointment, competition, or any other legal means, and which is also the framework code that serves as a model for all the institutions under its jurisdiction.

[44] During the on-site visit, the TSC reported that it was currently drafting its own code of ethical conduct under the aegis of the CCESP. The Committee therefore believes it would be beneficial for the TSC's implementation of the Convention for this initiative to be further pursued, on which point it will formulate a recommendation (see recommendation 1.4.1 in Chapter II of this report).

12. See http://www.tsc.gob.hn/Denuncia%20Ciudadana/index_denuncia_ciudadana.html.

13. See

http://www.tsc.gob.hn/Normativa%20Vigente/Normativas%20Internas_PDF/REGLAMENTO_DE_AUDITORIA_INTERNA.pdf.

14. Response of the Republic of Honduras to the questionnaire, pp. 22-23.

[45] Second, the Committee notes that during the on-site visit, the TSC stated that when a public servant resigns during an administrative investigation for acts of corruption, the proceedings are halted before an acquittal or punishment can be handed down. The result of that is a clean personnel record for the suspected corrupt official, with which s/he may freely serve in any another agency of the State since no punitive resolution was issued, had it been applicable. The Committee will formulate a recommendation (see recommendation 1.4.2 in Chapter II of this report).

[46] Third, with reference to interinstitutional coordination, during the on-site visit the TSC reported that although various agreements have been signed with other oversight agencies, and although it is a part of the Interinstitutional Anticorruption Coordination of Honduras (CIAH), several obstacles in that area are still to be surmounted. It should be noted that during the on-site visit, the need to strengthen interinstitutional coordination was a topic addressed on a crosscutting basis by each of the oversight agencies. For example, in its reply the State under review notes, among the difficulties, that the authorities of each institution do not furnish the information needed to perform audits in the way requested by the auditors and within the deadlines they indicate.¹⁵ The Committee believes that this topic is of particular importance in meeting the purposes of the Convention and it will formulate the corresponding recommendations (see recommendations 1.4.3 and 4.4.6 in Chapter II of this report).

[47] Moreover, during the on-site visit, the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC)” spoke of weaknesses in the CIAH’s operations. They also said that there was a strategic alliance in the National Congress but that it was not functional, and that the TSC’s reports were often dismissed by the Public Prosecution Service. In addition, the document presented by these organizations states: “*The establishment and strengthening of coordination and harmonization mechanisms to secure the support of other authorities and the public, particularly as regards the prevention of corruption, is an opportunity that the TSC could make better use of to improve its results.*”¹⁶

[48] In addition, during the on-site visit, the National Anticorruption Council (CNA) said that the CIAH had defined a proposal for a comprehensive anticorruption policy in Honduras and had presented it to the executive branch as a bill to be placed before Congress, indicating the need for a legal framework for an anticorruption law.

[49] Also during the on-site visit, the Bar Association said it was necessary to create an opportunity for building and launching a comprehensive national policy to fight against corruption, and it further noted the need to strengthen the interinstitutional cooperation instruments and mechanisms available among the agencies involved.

[50] On this point, during the on-site visit the Association of Judges and Magistrates also spoke of the need to strengthen interinstitutional coordination.

[51] Fourth, the Committee notes that during the on-site visit, the TSC addressed the existence of the challenge of greater specialization in the area, with the creation of expert courts for handling corruption cases, with judges who had been given legal training and had gained experience in assessing evidence, including assessing the TSC’s audit reports in corruption offenses; they described

15. *Ibid.*, p. 32.

16. Document submitted by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” p. 30.

this a current weakness in the system, and that comment was seconded by other oversight agencies during the visit. The Committee will formulate a recommendation on this point in the section dealing with the judiciary (see recommendation 4.4.2 in Chapter II of this report).

[52] Also during the on-site visit, the Bar Association underscored the need to create specialized courts for corruption offenses, with judges trained on the topic and in the forensic evaluation of evidence.

[53] Fifth, the Committee notes that during the on-site visit, the TSC said that one of its difficulties was an inadequate budget and inadequate human resources for hiring specialized forensic auditors. They stated that such audits are very expensive and that expert auditors often have to be contracted – for such tasks as performing audits of construction projects, environmental audits, etc., the cost of which is practically prohibitive. The Committee will formulate a recommendation on this point (see recommendation 1.4.4 in Chapter II of this report).

[54] It should also be noted that during the on-site visit, the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH)” and “Civil Society Group (GSC)” said that although the TSC has an excellent technical capacity, it lacks the resources needed to conduct audits.

[55] On that same occasion, the Bar Association underscored the need to create a forensic auditing unit for corruption offenses within the TSC, which would work in conjunction with the Public Prosecution Service.

[56] Sixth, the Committee notes that in its reply, the State under review stated that one of its needs was the technological equipment necessary for its auditors to discharge their duties more effectively and expeditiously.¹⁷ During the on-site visit, the TSC also said that the small budget assigned to it limited mass outreach, follow-up efforts, investigations, ethical inspections, and training, and that it also lacked the personnel needed to cover demand, provide technical support, and carry out its other activities (see recommendation 1.4.5 in Chapter II of this report).

[57] Seventh, the Committee notes that in its reply, the State under review said, regarding its difficulties with the TSC, that “*when audits are carried out and irregularities are identified, some officials or employees are no longer in their posts; that hinders the ability to investigate and to secure information for clarifying situations, since efforts must be made to locate them and other situations, and that causes time-wasting.*”¹⁸ On this point, the Committee believes that the State under review could consider implementing a database, so that all the institutions of the State can keep up-to-date information on employees who no longer work there, in order to facilitate the location of information in those cases in which irregularities are detected in the audits that the TSC carries out (see recommendation 1.4.6 in Chapter II of this report).

[58] Eighth, during the on-site visit the representatives of the National Banking and Insurance Commission (CNBS) noted the need for and importance of an effective mechanism to follow up on criminal proceedings, and the results thereof, brought on the basis of information provided by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption, either at their request or on an ex officio basis. Based on the foregoing, and on the importance of interinstitutional cooperation and coordination in the fight

17. Response of the Republic of Honduras to the questionnaire, p. 32.

18. Response of the Republic of Honduras to the questionnaire, p. 32.

against corruption, the Committee will formulate recommendations for the implementation of such a mechanism (5.4.1, Chapter II of this report).

[59] Ninth, the Committee notes that during the on-site visit, in the interviews with the CNBS, it was also suggested that a standardized form for financial information could be adopted – for both the banks and the new information system on sworn statements – and that a circular could be issued establishing an obligatory standard form for all banks, meeting the TSC’s requirements, which would guarantee the quality and truthfulness of the information directly and could include any additional information, particularly in the analysis of patterns. On that occasion, the representatives of the TSC said they would provide the CNBS with the relevant information for drawing up such a form. The Committee will formulate recommendations (see recommendations 1.4.7 and 5.4.3 in Chapter II of this report).

[60] Tenth, the Committee notes that during the on-site visit, it was suggested that mechanisms be introduced for exchanging available information between the TSC and the CNBS in order to facilitate the timely fulfillment of verification and investigation of sworn statements of net worth within the sphere of their respective competencies, thereby enhancing the operability and security of the verification process (see recommendations 1.4.8 and 5.4.4 in Chapter II of this report).

[61] Eleventh, the Committee notes that during the on-site visit, mention was made of the need to recognize electronic signatures instead of having to collect originals of statements. It was noted that this would require a legislative amendment, since the CNBS Law recognizes electronic signatures but the TSC’s Organic Law does not. The Committee will formulate a recommendation on this point (see recommendation 1.4.9 in Chapter II of this report).

[62] Finally, in its reply the State under review indicated, as a technical cooperation need, support in accounting, forensic auditing, and illicit enrichment.¹⁹ On this point, the Committee notes the needs indicated by the TSC and the need for the State under review to provide it with the necessary support, and it invites the States Parties – particularly their courts of accounts and comptrollers general – and other cooperation organizations to assist the Court on these matters. The Committee will formulate a recommendation (see recommendation 1.4.10 in Chapter II of this report).

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

[63] Based on the response of the country under review to the questionnaire and the on-site visit, information was gathered regarding the results obtained by the Superior Court of Accounts (TSC), of which the Committee notes the following:

[64] First, regarding the TSC’s function of preventing the commission of illicit acts, during the on-site visit the Court reported that in the Annual Operating Plan, the Directorate of Probity and Ethics, through the Department of Public Ethics, has established “Ethical Meetings” with the members of the probity and ethics committees, executive authorities, and human resource directors of different public agencies, in attempt to identify solutions to the obstacles met in the implementation of the Code of Ethical Conduct of Public Servants. In addition, Ethical Audits have been conducted to measure the level of ethical compliance in public institutions and the adoption of rules or regulations for ethical conduct.

19. *Ibid.*, p. 32.

[65] Regarding training and raising the awareness of public servants on ethical values, the Committee notes that the TSC reported that since 2008 to date in 2012, a total of 58,604 public servants had received training on the following topics: Code of Conduct of Public Servants, functional awareness, sworn statements, conflicts of interest, regulations for the creation of Committees, promotion of citizen complaints, and good governmental practices.²⁰

[66] In addition, regarding the participation of the public in preventive activities, the TSC reported during the on-site visit that a training module had been created on the subject of citizens' complaints, that public hearings were held, and that work was underway on the publication of a public accountability manual for municipalities.

[67] However, the Committee also notes that in the section of its reply dealing with the TSC, the State under review said one of its difficulties was "*a lack of training for public servants in the area of auditing, as well as on probity and ethics.*" During the on-site visit, the TSC explained that although a large number of public servants had received training on ethics and probity issues, they were mostly municipal officials, whose training is paid for with a special fund that cannot be used to train the TSC's employees. In addition, the Court said that because of the way those funds are regulated, it has to contract consultants because it is unable to hire personnel to provide that training and that, on occasions, the quality of those consultants is questionable. The Committee will formulate a recommendation on this point (see recommendation 1.4.11 in Chapter II of this report).

[68] In addition, the Committee notes that the information is not broken down by year and that it is unable to determine when the prevention activities referred to in the questionnaire response took place. The Committee therefore believes that it would be important to complete or clarify this information, as appropriate, so that it can be used to identify challenges and recommend corrective measures. Accordingly, it will formulate a recommendation (see recommendation 1.4.12 in Chapter II of this report).

[69] Second, as regards the function of detecting acts of corruption that trigger administrative, economic, civil, or criminal responsibility, the Committee notes that the State under review, on its web page at <http://www.tsc.gob.hn/Indicadores/Indicadores.pdf>, has published statistical data for the period 2003-2012. This information indicates how many auditing reports and how many deeds of responsibility have been reported to the corresponding authorities; information on the recovery of assets through the payment of civil responsibility; the case files referred to the Public Prosecution Service and to the office of the Attorney General of the Republic; the number of civil responsibility resolutions issued, the resolutions dismissed and without civil responsibility; resolutions in which illicit enrichment is presumed; and resolutions in which illicit enrichment is not presumed.²¹

[70] From the foregoing, it can be concluded that the TSC has maintained indicators on the requested information and that it believes it is important that this information be kept up to date. It can also be seen that the table does not offer complete statistical information on the amount of monetary responsibility corresponding to the case files referred to the Public Prosecution Service from 2010 to date, to the case files referred to the office of the Attorney General of the Republic for 2012 and later, or on the number and amount of the resolutions issued in 2012. The Committee therefore believes that it would be important to complete or clarify this information, as appropriate, so that it can be used to identify challenges and recommend corrective measures. Accordingly, it will formulate a recommendation (see recommendation 1.4.13 in Chapter II of this report).

20 See http://www.oas.org/juridico/pdfs/mesicic4_hnd_est.pdf.

21. See <http://www.tsc.gob.hn/Indicadores/Indicadores.pdf>.

[71] Third, regarding the punishment of acts of corruption that trigger economic or civil responsibility for the persons involved therein, during the on-site visit, the following was gathered, indicating the amount of the fines imposed and the economic redress paid into the State's coffers over the past five years as the result of the TSC's resolutions:²²

Years	Amount in Lempiras				
	2007	2008	2009	2010	2011
Resolutions with civil and administrative responsibility					2.329,647.61
Resolutions with civil responsibility	42.465,956.83	296.410,578.14 \$ 48.440	276.725,815.79	755,499.24	1,904,487.807.50
Resolutions without civil responsibility				93.145,931.40	111,095,451.76
Resolutions without payment to TSC made		666,660.73	2.541,869.52		
Resolutions with payment to PGR made		778,509.81	150,779.91		
Resolutions for alleged illicit enrichment	6.161,053.90	28.106,613.75	43.007,108.18		
Resolutions without alleged illicit enrichment	782,027.87				

[72] On that occasion it was also noted that the total amount of economic harm covered by resolutions of responsibility for the period 2007-2000 was 2,523,175,305.11 lempiras (without including the 48,440.00 from the second column).

[73] In addition, the total value of the economic harm covered by resolutions without responsibility was 204,241,383.16 lempiras, while the total value of the economic harm covered by resolutions issued by the TSC was 2,727,416,688.27 lempiras. That means that in 92.5% of the cases in which the TSC issued a resolution, the State suffered economic harm.

[74] Regarding the percentage recovered, 3,208,530.25 lempiras were recovered under resolutions in which payment was made to the TSC, while 929,289.72 were recovered by resolutions in which payment was made to the office of the Attorney General of the Republic (PGR). In accordance with this information, the TSC reports that the asset recovery rate is 0.16%, and that all the resolutions entail an appeals process that takes time to resolve. Taking into consideration the importance of

22. See http://www.oas.org/juridico/pdfs/mesicic4_hnd_est.pdf.

making redress for the harm inflicted on the State, the Committee will formulate a recommendation (see recommendation 1.4.14 in Chapter II of this report).

[75] In addition, the document presented by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH)” and “Civil Society Group (GSC)” indicates that *“In spite of the progress and achievements in recent years, the TSC suffers from delays and excessive bureaucracy in the process of notifying responsibilities in certain cases and also in the process of recovering public funds,”*²³ and later states that *“we recommend hiring temporary personnel to conclude the preparation of deeds of responsibility, using mass communications to serve notice, and identifying more streamlined mechanisms to increase the effectiveness and efficiency of the recovery process.”*²⁴

1.4. Conclusions and recommendations

[76] Based on the comprehensive analysis of the Superior Court of Accounts (TSC) offered in the preceding sections, the Committee offers the following conclusions and recommendations:

[77] The Republic of Honduras has considered and adopted measures for maintaining and strengthening the Superior Court of Accounts (TSC) as an oversight body, as indicated in section 1 of Chapter II of this report.

[78] In view of the comments made in that section, the Committee suggests that the State under review consider the following recommendations:

- 1.4.1. Develop and implement the TSC’s Code of Ethics based on the framework code of ethics of the executive branch (see section 1.2 of Chapter II of this report).
- 1.4.2. Take the steps necessary so that, when a public servant resigns during an administrative investigation for acts of corruption, the proceedings continue until a dismissal or a punitive resolution is issued, and, if applicable, the corresponding sanction is imposed (see section 1.2 of Chapter II of this report).
- 1.4.3. Promote and strengthen mechanisms for coordination and mutual assistance in the detection, investigation, prosecution, and punishment of acts of corruption, among the oversight agencies with responsibilities in that area, where applicable, in addition to those already implemented, and ensure that those that exist are fully operational (see section 1.2 of Chapter II of this report).
- 1.4.4. Strengthen the TSC by providing it with the human and budgetary resources needed to carry out specialized forensic audits in order to ensure full compliance with its duties in detecting acts of corruption, in accordance with the available resources (see section 1.2 of Chapter II of this report).
- 1.4.5. Strengthen the TSC by providing it with the human and budgetary resources needed to ensure full compliance with its duties, in accordance with the available resources (see section 1.2 of Chapter II of this report).

23. Document submitted by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” p. 28.

24. *Ibid.*, p. 29.

- 1.4.6. Take the steps necessary to implement a database in all the institutions, in order to ensure updated information for locating those public servants who no longer work at those institutions, to streamline the securing of information in cases in which evidence of irregularities is detected in the audits carried out by the TSC (see section 1.2 of Chapter II of this report).
- 1.4.8. Provide the CNBS with the information it needs to collaborate with the TSC in developing a standard form for financial information to be used by all banking, insurance, and other institutions, in order to guarantee the quality of the information provided for use in the verification and analysis of sworn statements of net worth conducted by the TSC (see sections 1.2 and 5.2 of Chapter II of this report)
- 1.4.7. Establish mechanisms for the exchange of available information between the TSC and the CNBS in order to facilitate timely verification and investigation of sworn statements of net worth in the sphere of their respective competencies, thereby enhancing the operability and security of the verification process (see sections 1.2 and 5.2 of Chapter II of this report).
- 1.4.9. Take the necessary legislative measures to recognize electronic signatures in the Organic Law of the Superior Court of Accounts (TSC), as is already recognized in the Civil Code, so that statements can be filed electronically, thereby facilitating the crosschecking of information and alerts (see sections 1.2 and 5.2 of Chapter II of this report).
- 1.4.10. Pursue the necessary negotiations with other states and cooperation organizations to provide the TSC with technical cooperation in the areas of accounting, forensic auditing, and illicit enrichment, so that it can discharge its functions more effectively (see section 1.2 of Chapter II of this report).
- 1.4.11. Provide the TSC with the human and budgetary resources needed to train and raise the awareness of its officers on the topics of probity and ethics, and to ensure the quality of the people selected to provide that training to both the TSC's personnel and other public servants, in accordance with the available resources (see section 1.3 of Chapter II of this report).
- 1.4.12. Break down the statistical information on the prevention of corrupt acts in such a way as to obtain data that clearly indicate the preventive actions taken over the past five years, in order to identify challenges and recommend corrective measures (see section 3.3 of Chapter II of this report).
- 1.4.13. Complete or clarify the statistical information on the monetary responsibility amounts involved in the case files referred to the Public Prosecution Service from 2010 to date, in the case files referred to the office of the Attorney General of the Republic from 2012 to date, and on the number and amount of the resolutions issued in 2012; also, keep the information on the indicators up to date, in order to identify challenges and recommend corrective measures (see section 1.3 of Chapter II of this report).

- 1.4.14. Take the steps necessary to develop mechanisms that will allow the efficient and timely recovery of harm inflicted on the State (see section 1.3 of Chapter II of this report).

2. PUBLIC PROSECUTION SERVICE (MP)

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

[79] The Public Prosecution Service (MP) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[80] Article 1 of the Law of the Public Prosecution Service (LMP) states that the MP is a specialized professional body, free from all sectoral and political interference, functionally independent of the branches of government and state agencies, responsible for the pursuit of the following goals and objectives: “1. *Representing, defending, and protecting the general interests of society; 2. Assisting in and overseeing the prompt, correct, and effective administration of justice, particularly in the criminal area, pursuing the investigation of crimes until the perpetrators are identified, and requesting the competent courts for the enforcement of the law through the exercise of public criminal action; 3. Overseeing the respect and observance of constitutional rights and guarantees, of the rule of law, and of the Constitution; 4. Combating drug trafficking and all forms of corruption; 5. Investigating, ensuring, and deciding on the ownership and integrity of national assets for public use, and on the legal, rational, and correct use of state assets transferred to private citizens and, when appropriate, bringing the corresponding legal actions; 6. Assisting with the protection of the environment, of the ecosystem, and of ethnic minorities, and with the preservation of archeological and cultural heritage and other collective interests; 7. Protecting and defending consumers of basic goods and public services; and 8. In collaboration with other public or private agencies, overseeing respect for human rights.*”

[81] The MP’s broad range of functions include the following: (i) Overseeing the prompt, expeditious, and correct administration of justice and the faithful enforcement of law by courts and tribunals in criminal proceedings and in proceedings involving public order; (ii) Filing charges before magistrates, judges, and other officers and employees of the judiciary against persons who commit offenses punishable by disciplinary sanctions; (iii) Taking the actions necessary to enforce the civil, criminal, administrative, or disciplinary responsibility incurred by public officials and employees, either civilian or military, by reason of or during their functions and employment, with the exception of those that are the competence of the office of the Attorney General of the Republic; (iv) Defending and promoting the independence and autonomy of judges and magistrates in the legitimate exercise of their functions; (v) Controlling the stock of national assets for public use, verifying the State’s ownership, and ensuring, through the relevant investigations, if they are being used for the public purposes intended and, if not, to inform the office of the Attorney General of the Republic for that agency to pursue the corresponding administrative and judicial actions; (vi) Verifying the legality and compliance of requests for tenders, competitions, auctions, and other procedures for selecting state contractors, ensuring due compliance with administrative contracts, and, if that is not the case, informing the office of the Attorney General of the Republic (LMP, Article 16).

[82] Regarding exceptions to the exercise of its functions, the MP is a specialized professional body, free from all sectoral and political interference, functionally independent of the branches of government and state agencies (LMP, Article 3) and consequently there are no such exceptions.²⁵

[83] Regarding the performance of functions jointly or in collaboration with other agencies or authorities, in its reply, the State under review noted that in all matters related to combating corruption, the MP, through the office of the Special Prosecutor for Corruption Offenses (FECC), works alongside the Superior Court of Accounts (TSC) which, as part of its duties, carries out both regular and special audits and, if evidence of criminal responsibility is found, the TSC refers the report to the MP for it to take the appropriate criminal action.²⁶

[84] Regarding the adoption of decisions and the applicable remedies, orders are adopted on a single-person basis by hierarchical superiors; and the only available remedy against the superior's orders and instructions is reconsideration, provided that the recipient informs the superior in a grounded document that he or she believes them to be inadmissible or in breach of law, for the reasons argued. The superior may ratify, amend, or revoke them, as he deems applicable (LMP, Article 12).²⁷

[85] Regarding the way in which its most senior positions are filled, the Prosecutor General of the Republic and Assistant Prosecutor General are elected by the National Congress, with the favorable vote of two-thirds of all its members, from a list of five candidates presented by a Nominations Board convened and chaired by the President of the Supreme Court of Justice and also comprising a justice of the Supreme Court of Justice selected by the plenary of that court, the rector of one of the universities operating in the country, a representative of the Bar Association of Honduras appointed by its Board, and the National Commissioner for Human Rights. Article. This Nominations Board is governed by its own rules of procedure. In addition, the Prosecutor General of the Republic and Assistant Prosecutor General shall serve periods of five (5) years and may be elected for one additional such period (LMP, Articles 22 and 23).

[86] The Prosecutors General may be removed from their positions by a simple majority vote in the National Congress, if convicted at trial for either official or common crimes. Removal is also possible based on reasons of physical or natural inability. The Supreme Court of Justice is responsible for hearing the official and common crimes with which the Prosecutor General of the Republic or the Assistant Prosecutor General are charged, following the adoption of an indictment by the National Congress (LMP, Article 25).

[87] Regarding the way in which the MP's human resources are determined, Article 74 of the LMP states that officers and employees of the Public Prosecution Service shall enjoy tenure in their positions and may only be removed as provided for in the LMP and in the Statute of the Public Prosecution Service Career (ECMP) issued by the Prosecutor General of the Republic, which shall also stipulate rules for public competitions for the hiring and promotion of the agency's employees.

[88] Article 24 of the ECMP further states that the positions listed in the Post Classification Manual shall be awarded by competition, while Article 25 provides that those competitions shall be public, competitive procedures.

25. Response of the Republic of Honduras to the questionnaire, p. 6.

26. *Ibid.*

27. *Ibid.*, p. 8.

[89] Articles 21, 22, and 23 of the ECMP set out the requirements for employment with the MP, together with the applicable grounds for disqualification. Article 73 of the LMP states that to ensure that the Public Prosecution Service's duties are discharged with guarantees of efficiency, objectivity, rectitude, and equanimity, its officers and employees may pursue no partisan political activities during the time they hold their position, and that pursuing professional practice or holding any other public or private position is incompatible with the functions of the Public Prosecution Service.

[90] During the on-site visit, the representatives of the MP indicated the existence of Post Classification Manuals that stipulate the profiles and requirements of each position, and that each directorate issues its own procedure manuals. They also spoke of the existence of a Strategic Plan, on the basis of which Annual Operating Plans are drawn up, and of an Internal Auditing Unit.

[91] During the on-site visit, reference was also made to a Code of Ethics for Employees of the Public Prosecution Service, which sets out duties in the performance of functions, duties with respect to the court system, duties at work, and duties toward society.

[92] Regarding training, in its reply the State under review noted that "*directly and in collaboration with the National Autonomous University of Honduras and the judiciary, it provides training, education, and refresher courses for the personnel of its offices and candidates for vacancies, in order to ensure increased efficiency in the different services provided to society.*"²⁸

[93] Regarding the way in which the public is provided with information about its objectives and functions, the procedures established for the performance of those functions, and how to pursue formalities with the oversight body, in its reply the State under review noted that "*procedures are established through the Public Relations Offices, whereby the public is provided with information, through television programs, about how to lodge a complaint and the proceedings carried out, and about the objectives and functions of this criminal prosecution agency.*"²⁹

[94] Regarding mechanisms for internal control and dealing with claims, complaints, and allegations related to the pursuit of its objectives and to the performance of its officers, the State under review reported the existence of two channels: the National Prosecution Directorate and the National Prosecutor Supervisory Office, both of which are attached directly to the office of the Prosecutor General of the Republic.³⁰ During the on-site visit, the State under review further clarified that the National Supervisory Office is responsible for hearing complaints and allegations made by the public. In turn, the Prosecution Directorate is responsible for the direct oversight of prosecutors.

[95] The MP also has a disciplinary procedure for its officers, set out in Articles 54 to 71 of the LMP. This procedure covers the different types of offenses and the corresponding sanctions, which range from oral admonishments to dismissal. The administrative procedure for dismissals is covered by Articles 64 to 71, while Article 63 deals with the appeals process.

[96] In addition, the MP has an Internal Auditing Unit that reports to the Superior Court of Accounts.

28. Response of the Republic of Honduras to the questionnaire, p. 13.

29. Response of the Republic of Honduras to the questionnaire, p. 16.

30. *Ibid.*, pp. 17-18.

[97] Regarding the way in which its budgetary resources are guaranteed, the MP must prepare an annually proposed budget for submission to Congress, through the Secretariat of Finance, for inclusion in the General Budget of Income and Expenditure of the Republic (LMP, Article 24).

[98] Regarding interinstitutional coordination mechanisms, in its reply the State under review notes that it maintains ties with all the institutions of the State, and particularly with the Superior Court of Accounts (TSC), the Supreme Court of Justice (CSJ), the National Banking and Insurance Commission (CNBS) and, among civil society bodies, with the National Council Anticorruption (CNA), as a part of the Interinstitutional Anticorruption Commission of Honduras (CIAH). In addition, it reported the existence of interinstitutional pacts and agreements intended to improve and streamline the investigation of punishable acts by public officials and employees and to assist and participate in the investigation of offenses or malpractice in public investigations.³¹ In addition, during the on-site visit, information was provided on the existence of cooperation agreements between the office of the Special Prosecutor for Corruption Offenses (FECC) and the Superior Court of Accounts, as well as with the Executive Directorate of Revenue, intended to ensure coordinated management of investigations involving those two institutions.³²

[99] Regarding accountability, the MP has to prepare an annual report on its work and present it for approval by Congress (LMP, Article 24). Similarly, during the on-site visit, the MP explained that this annual report was prepared from information gathered by all the prosecutors offices and that the statistical part was compiled by the Technical Unit for Criminal Reform (UTRP). In addition, in its reply the State under review notes that *“public security control mechanisms have been created to monitor whether justice operators give due account of their activities and of the way in which they discharge their professional obligations in pursuit of their objectives and functions.”*³³

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

[100] The Public Prosecution Service (MP) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in Section 2.1 of this report. Nevertheless, the Committee deems it appropriate to make a number of observations in relation thereto:

[101] First, the Committee notes that during the on-site visit the State under review reported several problems within the MP related to human resources, and it further noted that in addition to having limited personnel, prosecutors who leave the agency for whatever reason are not replaced, which further reduces the MP’s staffing levels and impedes its ability to discharge its duties in full.

[102] Similarly, the State reported that although a forensic auditing unit exists, there are very few auditors and they are not exclusively dedicated to corruption offenses but instead also work in other areas at the national level. Mention was then made of the need to strengthen this area and to professionalize the forensic auditors, since most of them are experts in commerce with high-school educations, and very few of them have professional educations. In addition, the Committee notes that during the visit it was said that the MP suffered from a lack of specialized resources and forensic equipment, such as equipment for taking fingerprints, and of the most basic logistical tools, such as recording equipment. The Committee will formulate a recommendation (see recommendation 2.4.1 in Chapter II of this report).

31. *Ibid.*, p. 21.

32. See PowerPoint presentation at http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

33. Response of the Republic of Honduras to the questionnaire, p. 23.

[103] In this regard, it should be noted that the document presented by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC)” speaks of the need to “*Strengthen the technical investigation staff of the office of the Special Prosecutor for Corruption Offenses with experts in the kind of crimes most frequently reported by both the public and the authorities.*”³⁴ In addition, the organizations stated that on many occasions the reports of the Superior Court of Accounts (TSC) are dismissed by the MP and that greater harmonization between the two agencies is needed.

[104] Also during the on-site visit, the Bar Association underscored the need to create an investigations unit for corruption offenses within the prosecutor’s office. This was reiterated on that occasion by the Association of Judges and Magistrates, while the Honduran Council for Private Enterprise (COHEP) thought that investigation processes should be professionalized to make them more efficient.

[105] Second, the Committee notes that during the on-site visit, the MP indicated that one of its needs was the creation of a police unit specializing in the investigation of corruption offenses. The MP’s representatives added that they had requested the direct assistance of the higher authorities, who assign them temporary police personnel if they have the time. However, that personnel is by nature on secondment, has no tenure or specialized training, and is subject to frequent rotations, as a result of which any expertise they may have acquired with corruption cases is lost. As a result, the prosecutors end up conducting raids, seizures, and investigations themselves, instead of having the police do so. They therefore underscored the fact that what they need is a specialized police unit assigned to work with the MP in corruption cases. It should be noted that this difficulty was also noted by the Judicial Branch during the on-site visit: the representatives of the judiciary stated that the absence of a specialized unit of this kind to assist the MP was a weakness in the investigation of corruption offenses and that National Directorate of Special Investigations was also not equipped with personnel specializing in this topic. The Committee will formulate a recommendation (see recommendation 2.4.2 in Chapter II of this report).

[106] In this regard, it should be noted that the document presented by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC)” states that “*The MP’s main difficulty in discharging its functions is found at the criminal investigation phase, because it lacks a specialized technical agency to pursue inquiries in corruption matters. Neither does it have the staff necessary to carry out and conduct the investigation process in an acceptable time and, consequently, delays arise in the processing of complaints.*”³⁵

[107] In addition, during the on-site visit, the Association of Prosecutors said that the National Police does not have personnel specialized in corruption offenses, only financial analysts who work with the prosecution service on the topic of organized crime.

[108] Third, the Committee notes that during the on-site visit, the MP said that in spite of the existence of the Interinstitutional Anticorruption Commission of Honduras (CIAH), made up of all the justice operators, those responsible for coordinating with the police force are not covered by the

34. Document submitted by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” p. 37.

35. Document submitted by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” p. 36.

interinstitutional agreement. It also said that the lifetime of the CIAH has expired and that it was no longer active, on account of which it should be reactivated. In addition, in spite of the existence of interinstitutional agreements with other oversight agencies, they noted the need to strengthen interinstitutional coordination. The Committee will formulate recommendations (see recommendation 2.4.3 in Chapter II of this report).

[109] On this point, it should be noted that during the on-site visit, the civil society organizations “Association for a More Just Society (ASJ)” and “Federation of Private Organizations for the Development of Honduras (FOPRIDEH)” reported that the CIAH was not operating.

[110] Also during the on-site visit, the Bar Association underscored the need to strengthen the instruments and mechanisms for interinstitutional cooperation among the agencies involved.

[111] Fourth, during the on-site visit, the MP noted that another difficulty was that the office of the Special Prosecutor for Corruption Offenses (FECC) has only 14 prosecutors to deal with all the cases at the national level, and that although regional prosecutors exist, only San Pedro Sula has an Anticorruption Prosecutor’s Office, with only six prosecutors, as a result of which all corruption cases are dealt with in Tegucigalpa or San Pedro Sula. The local cases are dealt with by local prosecutors, but they deal only with the deadlines and procedure, since responsibility for the cases lies with the anticorruption prosecutor. They noted that it is generally the anticorruption prosecutor who attends the initial hearing or one additional one, and that the remainder are left to the local prosecutor. However, they reported that often, local prosecutors request that the anticorruption prosecutor attend all the hearings since, because they are local, the risk to them is greater. On this point, they reported that several prosecutors have been attacked or threatened, to the extent that one of them sought asylum in 2008. The Committee will formulate recommendations (see recommendations 2.4.4 and 2.4.5 in Chapter II of this report).

[112] Fifth, the Committee notes that during the on-site visit, other oversight agencies spoke of the delays in bringing corruption cases to court, which, they said, frequently lead to impunity. They explained that the reasons for these delays included the fact that bringing these cases to court requires the direct authorization of the Prosecutor General, which creates a bottleneck that contributes to the delay. The Committee will formulate a recommendation on this point (see recommendation 2.4.6 in Chapter II of this report).

[113] Sixth, the Committee notes that during the on-site visit, the MP said that there was a need to professionalize the judges responsible for handling corruption offenses and that the judges frequently did not understand that the auditing reports of the Superior Court of Accounts (TSC) represented a technical audit to serve as evidence in a criminal case, such as cases of illicit enrichment and other corruption offenses, and not merely as a complaint that is still to be investigated. They added that these interpretations by the judges are isolated and do not follow any established precedent, but they represent a chronic problem; this situation was also described by the TSC during the on-site visit. The MP suggested creating special judges for corruption matters, in the same way that special judges have been established for organized crime offenses. The Committee will formulate recommendations on this matter in the section dealing with the Judicial Branch (see recommendations 4.4.2. and 4.4.3 in Chapter II of this report).

[114] It should also be noted that during the on-site visit, the Bar Association underscored the need to create specialized courts for corruption offenses, with judges trained in the area and in the forensic appraisal of evidence.

[115] Also during the on-site visit, the Association of Prosecutors said there was no consistency between judicial rulings, and that acquittals had been ordered on the grounds that the TSC's procedures had not been completed, together with convictions for the same reason.

[116] Seventh, regarding the system for receiving and processing complaints and allegations lodged by the public, the Committee notes that during the on-site visit, the MP explained that the National Supervisory Office was the body responsible. However, they said the problem was that the National Supervisor was not present at all the local prosecutors' offices and that the process is currently being handled by the Regional Coordinator. They spoke of the need to strengthen the National Supervisory Office to give it nationwide coverage and to ensure that it was not limited to one single person – in this case, the Regional Coordinator, who has a very heavy workload. The Committee will formulate a recommendation on this point (see recommendation 2.4.7 in Chapter II of this report).

[117] Eighth, during the on-site visit the representatives of the National Banking and Insurance Commission (CNBS) noted the need for and importance of an effective mechanism to follow up on criminal proceedings, and the results thereof, brought on the basis of information provided by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption, either at their request or on an ex officio basis. Based on the foregoing, and on the importance of interinstitutional cooperation and coordination in combating corruption, the Committee will formulate recommendations for the implementation of such a mechanism and recommendations for the implementation of such a process (see recommendation 5.4.1 in Chapter II of this report).

[118] Finally, the Committee notes that although the MP has a series of mechanisms for informing, training, and securing the public's support in discharging its duties, during the on-site visit the agency reported a constant stream of requests for speakers at universities, schools, and civil society organizations, but that very few teaching materials were available for such undertakings because of the shortage of resources. Similarly, among other needs they noted the need to improve their web site because there are no IT staff assigned to it and updates are made by the prosecutors themselves. The Committee will formulate recommendations (see recommendations 2.4.8 and 2.4.9 in Chapter II of this report).

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

[119] Based on the response of the country under review to the questionnaire and the on-site visit, information was gathered regarding the results obtained by the Public Prosecution Service (MP), of which the Committee notes the following:

[120] First, the Committee notes that the MP offered no information on the actions it has pursued over the past five years to prevent corrupt acts, either in its response to the questionnaire or during the on-site visit; in consideration of this, the Committee will formulate a recommendation (see recommendation 2.4.10 in Chapter II of this report).

[121] Second, regarding its functions of detecting acts of corruption that trigger administrative, economic, civil, or criminal responsibility, the Committee notes that during the on-site visit, the MP presented the following summarized table:

Investigation workload	2007	2008	2009	2010	2011	Total
Complaints received	304	404	409	480	465	2,062
Dismissed	51	55	68	88	69	331
Under investigation	193	297	316	356	348	1,510
Brought to Court	60	52	25	36	48	221
Finalized judicial workload						
Suspension of Criminal Proceedings	16	10	2	0	0	28
Conciliation	7	5	4	5	5	26
Expedited procedure	3	5	1	0	3	12
Strict compliance	0	1	0	1	0	2
Convictions	11	8	2	1	2	24
Acquittals	2	5	1	0	1	9
Statutory limitations triggered	0	0	0	0	0	0

[122] In addition, regarding this same topic, the Committee notes that the State under review, in its reply to the questionnaire, stated that:³⁶

[123] “The total number of investigations opened from 2007 to date can be broken down as follows: Unit for Administrative Offenses: 1718 investigations; Unit for Corruption Offenses: 369; Unit for Tax Offenses: 123; Total investigations opened and ongoing: 2210.”

[124] “The number of suspended investigations from 2007 to December 31, 2011, is calculated on the basis of the dejudicialization measures applied during the proceedings: 2007: 25 investigations suspended; 2008: 20; 2009: 7; 2010: 4; 2011: 6. Total suspended investigations: 62.”

[125] “Investigations sent to the archive without a decision being reached on the merits in the case under investigation: None. However, following a detailed review of each case referred by the prosecutors responsible, the Filtering and Purging Unit – created in 2011 – has received a total of 333 case files for review; of these, 108 have been dismissed and the remainder are still under review by the Unit Coordinator and the Special Prosecutor.”

[126] “Investigations referred to the competent body in order for such a decision to be taken: 2007: 60 investigations with the competent body; 2008: 52; 2009: 25; 2010: 36; 2011: 48. Total investigations with the competent body: 209.”

[127] The Committee therefore notes that the summarized table included above shows that of the 2062 complaints received over the past five years, only 221 (slightly over 10%) have been brought to court; 331 (approximately 16%) have been dismissed; while 1510 (approximately 73%) are still under investigation, which indicates an excessive burden of pending cases. The Committee will formulate a recommendation (see recommendation 2.4.11 in Chapter II of this report).

[128] Similarly, the information provided in the response to the questionnaire on the number of investigations opened since 2007 indicates that the Unit for Corruption Offenses opened 369 investigations, but that figure is not broken down by year.

36. Response of the Republic of Honduras to the questionnaire, p. 27.

[129] In addition, regarding the paragraphs covering investigations that have been suspended, dismissed, or referred to the competent body, although the information is broken down by year, there is no indication of which of these cases involve acts of corruption or of the competent authority to which the proceedings were referred.

[130] Accordingly, based on the information available, the Committee believes that it is not possible to offer a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 2.4.12 in Chapter II of this report).

2.4. Conclusions and recommendations

[131] Based on the comprehensive analysis of the Public Prosecution Service (MP) offered in the preceding sections, the Committee offers the following conclusions and recommendations:

[132] The Republic of Honduras has considered and adopted measures intended to maintain and strengthen the Public Prosecution Service (MP) as an oversight body, as indicated in section 2, Chapter II, of this report.

[133] In view of the comments made in that section, the Committee suggests that the State under review consider the following recommendations:

- 2.4.1. Strengthen the MP's Auditing Forensic Unit, ensuring that it has sufficient specialized personnel to fully discharge its functions of investigating corruption cases and that it has the specialized resources and forensic equipment appropriate for those purposes, in accordance with the available resources (see section 2.2 of Chapter II of this report).
- 2.4.2. Institutionalize a unit of specialized police officers, trained in financial and corruption offenses, to act in coordination with the MP in the investigation of those crimes (see section 2.2 of Chapter II of this report).
- 2.4.3. Promote and strengthen, where appropriate, mechanisms for coordination and mutual assistance in the detection, investigation, prosecution, and punishment of acts of corruption among the oversight bodies with responsibilities in that area, in addition to those already implemented, and ensure that those that exist are fully operational (see section 2.2 of Chapter II of this report).
- 2.4.4. Strengthen the MP by providing it with the human and budgetary resources needed to ensure full compliance with its duties of investigating and prosecuting corruption cases, in accordance with the available resources (see section 2.2 of Chapter II of this report).
- 2.4.5. Take the steps necessary to ensure the protection of agents of the prosecution service in performing their functions of investigating and prosecuting acts of corruption (see section 2.2 of Chapter II of this report).
- 2.4.6. Take the steps necessary to speed up the decision-making process within the MP, so that corruption can be brought to court in the most efficient and expeditious fashion (see section 2.2 of Chapter II of this report).

- 2.4.7. Strengthen the MP's National Supervisory Office so that it expands across the entire nation and provide it with the human and financial resources needed for that purpose, in accordance with the available resources (see section 2.2 of Chapter II of this report).
- 2.4.8. Strengthen and expand the MP's programs for training and raising the awareness of the public and securing their support in the pursuit of its functions in investigating and prosecuting acts of corruption, and provide it with the human and financial resources needed for that purpose, in accordance with the available resources (see section 2.2 of Chapter II of this report).
- 2.4.9. Modernize and update the MP's web site, enabling it to disseminate the necessary information to the public regarding its functions in investigating and prosecuting acts of corruption, as well as accountability and other areas, ensuring in addition that the MP has IT personnel to take charge of the design and maintenance of that web site (see section 2.2 of Chapter II of this report).
- 2.4.10. Take actions to prevent corrupt acts, such as campaigns to publicize the consequences they bring; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attending to inquiries; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society; preparing statistics on results in order to identify challenges and recommend corrective measures (see section 2.3 of Chapter II of this report).
- 2.4.11. Take the necessary steps to expedite the processing of cases reported to the MP, to avoid delays and backlogs of pending cases, and to ensure that the process is carried out in the most efficient and expeditious fashion (see section of Chapter II of this report).
- 2.4.12. Complete and break down the statistical information on the investigation of acts of corruption, so that it includes updated, broken-down data that clearly indicates how many cases are ongoing; how many have been suspended for whatever reason; how many have been shelved because of the expiration of the established deadlines; how many have been shelved or dismissed without a decision being reached on the merits in the case under investigation; how many are at a stage that allows a decision to be reached on the merits of the case under investigation; and how many have been referred to the competent body for a decision, with an indication of that body, in order to identify challenges and recommend corrective measures (see section 1.3 of Chapter II of this report).

3. OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC (PGR)

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

[134] The office of the Attorney General of the Republic (PGR) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[135] The office of the Attorney General of the Republic (PGR) is a body created by the Constitution, responsible for the legal representation of the State, whose organization and functioning shall be determined by Law (Constitution, Article 228).

[136] The PGR is tasked with representing the State in discharging the following powers: promoting, representing, and upholding the rights of the State in all legal proceedings in which it is involved; lodging the relevant remedies against rulings that are unfavorable, either in whole or in part, to the interests that it represents; appearing on behalf of the State, in accordance with the instructions of the executive branch, and enacting deeds or contracts in which the nation is involved; issuing opinions on the legal requirements to be met by deeds enacted by the State in which it has an interest; overseeing and issuing the relevant instructions to ensure that the State's property and credit deeds are kept in the corresponding archives, with the relevant classifications and registrations, and proceeding with the replacement of any that have been lost; issuing an opinion on the inquiries lodged with it with questions on the enforcement of tax laws; advising the executive branch whenever the President of the Republic or Secretaries of State seek its opinion; distributing the relevant documents among the sections of the Attorney General's office, or issuing authorizations for them to be collected from government offices, in order for the applicable legal or extrajudicial measures to be adopted, keeping in all instances full records of trials and their results; ensuring that its subordinates meet the obligations and perform the functions indicated by law; preparing the Annual Report of the Office of the Attorney General, collating data on all the actions of its sections for submission to the National Congress within the first 15 days of the month of January each year; assuming, when it deems appropriate, temporary or permanent representation in proceedings or undertakings involving employees of the institution (PGR Law (LPGR), Article 19).

[137] The functions of the office of the Attorney General of the Republic are autonomous, with the exception of those cases when, in accordance with the law, it is required to follow special instructions (LPGR, Article 7).

[138] The PGR's authority complements that of the TSC in that it is responsible for bringing civil action arising from the TSC's oversight activities, except those involving municipal governments (Constitution, Article 230). It also shares functions with the Public Prosecution Service. The mechanism for resolving conflicts of jurisdiction is provided by the Interinstitutional Criminal Justice Commissions.

[139] The PGR decisions are taken individually and no remedies against them are provided for.³⁷

[140] The Attorney General of the Republic and Assistant Attorney General are elected by Congress for four years and are not eligible for a subsequent term; they must meet the same conditions and shall be subject to the same prerogatives and disqualifications as the Constitution establishes for justices of the Supreme Court (Constitution, Article 229).

[141] The Attorney General and Assistant Attorney General shall be responsible, to Congress, for the actions taken in pursuit of their duties, and they may only be removed from their positions, by Congress, when the commission of serious irregularities or crimes has been established (LOPGR, Article 35).

[142] Regarding the human resources of the office of the Attorney General of the Republic, all its officers are freely appointed and freely removable from their posts at the PGR. In addition, they are

37. Response of the Republic of Honduras to the questionnaire, p. 8.

subject to responsibilities, in accordance with the law, for crimes, misdemeanors, and omissions committed during the performance of functions, and the Attorney General may impose disciplinary sanctions on judicial prosecutors and on other employees in general for service shortcomings.³⁸

[143] The PGR has a posts and salaries manual that describes the functions of the members of its staff; it also has Internal Regulations and a code of internal ethics that complements the Code of Ethics of Public Servants. In addition, the response to the questionnaire indicates that PGR personnel are provided with training in such specialized areas as civil, criminal, labor, and administrative matters. It also states that the TSC has supported the training of the PGR's staff in the areas of risk analysis, the New Integrated System for Sworn Statements of Income, Assets, and Liabilities, the Guide to the Organization and Functioning of the Internal Auditing Unit, and Guide for Preparing the General Internal Auditing Plan.³⁹

[144] Regarding the implementation of modern systems or technologies to facilitate its work, in its reply to the questionnaire the State under review noted that the PGR has modern computer equipment that was recently donated by the Republic of China Taiwan, and that, in addition, it has a library of laws for its officers to consult.⁴⁰

[145] Regarding the way in which the public is provided with information about the objectives and functions of the PGR, the procedures established for the performance of its functions, and guided on how to pursue formalities with the PGR, in the section of its questionnaire response dealing with the PGR, the State under review reports that the information is received and distributed by the General Secretariat to the relevant department, for a reply to be sent to the member of the public who lodged the query, and that, in special cases, publications are made in the leading daily newspapers.⁴¹

[146] Regarding the mechanisms for internal control and dealing with claims, complaints, or allegations related to the pursuit of its objectives and to the performance of its personnel, in its reply to the questionnaire the State under review explained that in the PGR, claims, complaints, and allegations can be made through the Attorney General and that it also has an internal auditing office with which claims can be lodged.⁴²

[147] Regarding the way in which the budgetary resources assigned to the PGR are assured, the Honduran Constitution provides that the State shall ensure the funds necessary for the proper organization and functioning of the institution (Article 231). In addition, the LOPGR states that the budget of the PGR and its units is to appear in a special section of the General Budget of the Republic (Article 7).

[148] Regarding interinstitutional mechanisms and securing the support of the public, in its reply the State under review indicates that the PGR has links with the Public Information Access Institute (IAIP), the Executive Directorate of Revenue (DEI), Human Rights, the TSC, the National Congress, the Judicial Branch, the MP, and Foreign Affairs.⁴³

[149] Regarding accountability, the PGR is required to prepare an annual report of all the activities of its sections for submission to Congress within the first fifteen days of the month of January every

38. Response of the Republic of Honduras to the questionnaire, p. 13.

39. *Ibid.*, p. 14.

40. *Ibid.*, p. 16.

41. *Ibid.*, p. 17.

42. *Ibid.*, p. 18.

43. Response of the Republic of Honduras to the questionnaire, p. 21.

year (LOPGR, Article 10). In addition, in its reply the State under review indicates that the PGR has created a web site to publish information on earnings, employees, hiring, sales, requests for tenders, bidding processes, and procurement.⁴⁴

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

[150] The office of the Attorney General of the Republic (PGR) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in Section 3.1 of this report. Nevertheless, the Committee deems it appropriate to make a number of observations in relation thereto:

[151] First, regarding the way in which its human resources are appointed, the Committee notes that both in the response to the questionnaire and during the on-site visit, it was stated that this oversight agency's entire staff is freely appointed and that no career system existed within the PGR. In addition, it was reported that an amendment to the PGR's Organic Law was under consideration, which would provide for admission to the agency by means of public, merit-based competitions.

[152] Notwithstanding the recommendations formulated to the Republic of Honduras during the First and Second Rounds, during the latter of which the systems for hiring public servants were specifically examined, the Committee underscores the need for the implementation and institutionalization of admission to service in the PGR by means of public, merit-based competitions, for regulations to govern how those competitions are organized, for the implementation of a career system for the PGR's officers, and for the upholding of the principles of disclosure, equity, and efficiency. It also notes the need to create and implement a career service within the PGR in order to strengthen the agency. The Committee will formulate recommendations (see recommendations 3.4.1 and 3.4.2 in Chapter II of this report).

[153] Second, the Committee notes that during the on-site visit, the PGR confirmed its lack of documented procedures, such as manuals or guidebooks, for discharging its duties. It explained that work was underway on drafting a Procedures Manual in collaboration with the National Office for the Integral Development of Internal Oversight (ONADICI). In addition, it was reported that there was no Strategic Plan to indicate where the agency is headed over the coming years, and it was also said that medium- and long-term planning should be a far-reaching process of strengthening and modernization for the PGR. The Committee will formulate a recommendation on this point (see recommendation 3.4.3 in Chapter II of this report).

[154] Third, regarding job induction and regular training for employees, the Committee notes that during the on-site visit, the representatives of the PGR said that such training was provided by other institutions because the agency does not have a budget for training, and that this affects the continuity and coherence of those efforts. In light of the importance of the topic, the Committee will formulate a recommendation (see recommendation 3.4.4 in Chapter II of this report).

[155] Fourth, regarding the handling of complaints and allegations related to the pursuit of its objectives and the performance of its staff, during the on-site visit, the PGR's representatives explained that these were handled by the Document Control Unit and that, at the end of processing, the Attorney General decided whether they were to proceed or not. However, it was noted that this procedure is not documented in any regulations or internal manual. Consequently, the Committee will formulate a recommendation (see recommendation 3.4.5 in Chapter II of this report).

44. *Ibid.*, p. 24.

[156] Fifth, regarding accountability mechanisms and the way in which this information is made public so that citizens can have access thereto, the Committee notes that during the on-site visit, the PGR's representatives reported that this information is published on its web site, which is the only way available given the lack of resources. The same situation applied to the dissemination of the PGR's functions and undertakings. They noted that there was a shortage of resources for disseminating the PGR's functions and activities and that they were trying to improve the web page to make it more useful. On this point, the Committee notes that as of the drafting of this report, the PGR's web page is empty except for an "Under Construction" sign.⁴⁵ The Committee will formulate recommendations (see recommendations 3.4.6 and 3.4.7 in Chapter II of this report),

[157] On this point, it should be noted that the document presented by the civil society organizations "Association for a More Just Society (ASJ)," "Federation of Private Organizations for the Development of Honduras (FOPRIDEH)," and "Civil Society Group (GSC)" states, in connection with the annual reports that the PGR is to present to Congress within the first 15 days of January each year, that *"These annual reports are not published on the PGR's transparency site as required by law, and so we recommend placing them in the activities section under the planning and accountability tab."*⁴⁶

[158] Sixth, the Committee notes that during the on-site visit, the PGR spoke of several difficulties, including the lack of human resources. Thus, the PGR has only seven officers in Tegucigalpa, two in San Pedro Sula, two in Santa Bárbara, two in Ceiba, and two in Choluteca. In addition, the PGR also stated it does not have an adequate budget for it to operate properly, and that there is a need to strengthen its human and technological resources and to provide it with office equipment. The Committee will formulate a recommendation on this point (see recommendation 3.4.8 in Chapter II of this report).

[159] On this point, the document presented by the civil society organizations "Association for a More Just Society (ASJ)," "Federation of Private Organizations for the Development of Honduras (FOPRIDEH)" and "Civil Society Group (GSC)" states that *"Access to technology by the PGR's employees in order to facilitate their work is quite limited."*⁴⁷

[160] Seventh, the Committee notes that during the on-site visit, the PGR's representatives stated that one problem was its inability to bring public criminal action in corruption cases, particularly when the MP decides not to take those cases to court. The PGR considers that this restricts the exercise of the rights of the State that this institution was created to represent. The Committee will formulate a recommendation (see recommendation 3.4.9 in Chapter II of this report).

[161] Eighth, the Committee notes that in its reply, the State under review stated that for the PGR *"it has been difficult to prevent, detect, and punish corrupt acts, in that civil servants, when they are involved with the State in matters of civil, administrative, or criminal responsibility, transfer their assets to third parties and, when redress to the State is ordered, those civil servants are found to have no assets. At present there is no particular or special mechanism for technical cooperation with other states for punishing acts of corruption; instead, it takes place on an isolated basis or at the initiative*

45. See <http://www.pgrhonduras.gob.hn/>.

46. Document submitted by the civil society organizations "Association for a More Just Society (ASJ)," "Federation of Private Organizations for the Development of Honduras (FOPRIDEH)," and "Civil Society Group (GSC)," p. 41.

47. *Ibid.*, p. 39.

*of each oversight agency.*⁴⁸ The Committee will formulate a recommendation (see recommendation 3.4.10).

[162] On this point, the Committee notes that during the on-site visit, the topic of inadequacies in the interinstitutional coordination mechanisms between the agencies responsible for the prevention, detection, prosecution, and punishment of acts of corruption was addressed on a crosscutting basis by the Superior Court of Accounts (TSC), the Public Prosecution Service (MP), the Judicial Branch (PJ), and the National Banking and Insurance Commission (CNBS). Since the PGR is one of these oversight agencies and a part of those mechanisms, including the Interinstitutional Anticorruption Commission of Honduras (CIAH), and given that the difficulties indicated show that improvement is needed in coordination and information exchanges between the agencies, the Committee will formulate a recommendation (see recommendation 3.4.11 in Chapter II of this report).

[163] It should be noted that the document presented by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC)” states that one of the most serious problems facing the PGR *“has to do with the resolutions of the judiciary, and with disagreements among the various institutions of the State about establishing amounts owed or to be recovered (National Transparency Report 2007, p. 69); this underscores the absence of a formal mechanism for coordination and harmonization among the Honduran oversight bodies to focus efforts on the prevention, detection, and punishment of corruption.”*⁴⁹

[164] Ninth, during the on-site visit, the representatives of the National Banking and Insurance Commission (CNBS) noted the need for and importance of an effective mechanism to follow up on criminal proceedings, and the results thereof, brought on the basis of information presented by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption, either at their request or on an ex officio basis. Based on the foregoing, and given the importance of interinstitutional cooperation and coordination in fighting corruption, the Committee will formulate a recommendation (see recommendation 5.4.1 in Chapter II of this report).

[165] Finally, in its reply, the State under review noted that one of its technical cooperation consists of support in establishing a technical cooperation mechanism with other states for punishing acts of corruption.⁵⁰ The Committee notes the needs highlighted by the PGR and the need for the State under review to provide it with the necessary support, and it invites the States Parties and other cooperation agencies to assist the institution with those topics. The Committee will formulate a recommendation (see recommendation 3.4.12 in Chapter II of this report).

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

[166] Based on the response of the country under review to the questionnaire and the on-site visit, information was gathered regarding the results obtained by the office of the Attorney General of the Republic (PGR), of which the Committee notes the following:

48. Response of the Republic of Honduras to the questionnaire, p. 33.

49. Document submitted by the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC),” p. 40.

50. *Ibid.*, p. 33.

[167] First, regarding the actions the PGR has taken over the past five years to prevent corrupt acts, the Committee notes that in its reply, the State under review stated that *“Indirectly and extrajudicially, the office of the Attorney General of the Republic guides the officers of the public administration in discharging their functions and in the use and management of state funds; and, to remedy corrupt actions committed against the State, extrajudicial arrangements are made and, in those cases, payment agreements are entered into with the corrupt official.”*⁵¹

[168] On this point, the Committee notes that although the PGR reports that it has adopted various preventive measures, these are implemented indirectly; no specific indication is given of how that guidance is provided; the information is not broken down by year; nor is any statistical data offered on the results obtained over the past five years. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 3.4.13 in Chapter II of this report).

[169] Second, regarding its detection duties, the Committee notes that in its reply, the State under review notes that *“as an executing agency, over the past three years the PGR has brought 87 suits, 1,046 draft suits, 1,245 case files under investigation, and 26 suits withdrawn after the corrupt official paid his obligation to the State of Honduras.”*⁵²

[170] Regarding this point, the Committee also notes that during the on-site visit, the PGR’s representatives stated that acts of corruption can be subject to conciliation by the Public Prosecution Service (MP) and that when the corrupt official pays his obligation to the State of Honduras, the suit is withdrawn. They added, however, that the conciliation process and the withdrawal of the suit requires that the MP obtain authorization from the PGR. In connection with this, the representatives of the PGR reported that on June 5, 2012, the Attorney General issued a circular with the following instructions: *“In accordance with the guidelines and instructions issued by this office since two thousand and ten (2010), Judicial Prosecutors at the national level are again ordered to refrain from arriving at conciliations for corruption offenses, such as those involving the criminal offenses of abuse of authority, violation of the duty of officials, misappropriation of public funds, bribery, etc. The same applies to offenses related to drug trafficking (...).”*⁵³

[171] In connection with this, the Committee takes note of the steps taken by the PGR in issuing a circular to remind judicial prosecutors at the national level of the guidelines and instructions previously issued in 2010, whereby they are to refrain from entering into conciliations for acts of corruption – which have evidently continued to be adopted, judging from the information provided by the agency itself in the information on preventive actions and on the 26 suits withdrawn following conciliation with the corrupt officials. Similarly, the Committee also believes that by its nature, an internal circular does not offer a solution to the problem, since internal circulars can be amended or repealed by the authorities who replace the current ones and, in this case, they are merely guidelines and instructions that are not always obeyed, as appears to have happened in the case at hand. The Committee will formulate a recommendation on that point (see recommendation 3.4.14 in Chapter II of this report).

[172] In addition, the Committee notes that the information on the number of cases referred to above is not broken down by year and does not indicate which cases involve acts of corruption. The Committee also notes that during the on-site visit, the PGR presented additional information in a

51. Response of the Republic of Honduras to the questionnaire, p. 25.

52. *Ibid.*, p. 26.

53. See http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

series of statistical charts, which are available on www.oas.org/juridico/ppt/mesicic4_hnd_pgr2.ppt. These charts indicate the number of corruption cases per year, from 2008 to 2012, broken down by the crime involved. However, they do not indicate whether the cases were received, processed, under investigation, or concluded. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 3.4.15 in Chapter II of this report).

[173] Finally, as regards the results with the duty of punishing those corrupt acts that trigger economic or civil responsibility for the persons involved therein, the Committee notes that in its reply, the State under review stated, “*The office of the Attorney General of the Republic, as an execution agency, issues an extrajudicial summons, in due accordance with law, to the civil servant to inform him of the sanction imposed and for him to provide redress for the corrupt act committed against the State; such summonses have been extended to 877 public officials over the past three years,*”⁵⁴ and it also presented the following statistical information:

**ACTIVITIES CARRIED OUT IN THE PAST THREE YEARS
BY THE NATIONAL DIRECTORATE FOR JUDICIAL PROSECUTION**

Activities	2009	2010	2011	Total
Suits opened		3	56	87
Draft suits		283	763	1046
Case files under investigation		319	926	1,245
Extrajudicial recoveries	L. 6,963,032.16	L.27,610,859.24	L. 6,761,964.70	L. 41,335,856.16
Judicial recoveries	L. 689,722,022.42	L. 2,600,158.08	L. 33,708,042.34	L. 732,993,255.00
Payment agreements		46	39	85
Embargoes		21	9	30
Judicial and extrajudicial recoveries by the tsc	L. 733,851.02	L. 1,658,768.49	L. 1,069,244.84	L. 3,461,864.35
Favorable judgments			7	7
Unfavorable judgments			2	2
		L. 1, 484,133.61	L. 1,567,815.36	L. 3,051,948.97
Fines				47

[174] The Committee notes that this information is not complete, in that it does not cover the past five years. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 3.4.16 in Chapter II of this report).

3.4. Conclusions and recommendations

[175] Based on the comprehensive analysis of the office of the Attorney General of the Republic (PGR) offered in the preceding sections, the Committee offers the following conclusions and recommendations:

[176] The Republic of Honduras has considered and adopted measures for maintaining and strengthening the office of the Attorney General of the Republic (PGR) as an oversight body, as indicated in section 3 of Chapter II of this report.

⁵⁴ *Supra*, p. 28.

[177] In view of the comments made in that section, the Committee suggests that the State under review consider the following recommendations:

- 3.4.1. Notwithstanding the recommendations formulated during the First and Second Rounds, implement and regulate public competitions and make them obligatory for admission to employment with the PGR, ensuring that they are carried out on the basis of merit and respect the principles of disclosure, equity, and efficiency (see section 3.2 of Chapter II of this report).
- 3.4.2. Regulate and implement a career service in the PGR, taking into consideration the principles of openness, equality, and efficiency (see section 3.2 of Chapter II of this report).
- 3.4.3. Develop and implement documented procedures for its tasks, together with manuals or handbooks thereon, including a strategic planning process with defined goals for strengthening and modernizing the PGR in the short, medium, and long terms (see section 3.2 of Chapter II of this report).
- 3.4.4. Provide the PGR, in accordance with the available resources, with the human and budgetary resources necessary for it to be able to provide its officers with induction courses and regular training on their functions without having to depend on the availability of other agencies for that purpose (see section 3.2 of Chapter II of this report).
- 3.4.5. Prepare and implement documented procedures in the PGR's internal regulations for the way in which it is to process complaints and allegations related to the pursuit of its goals and the performance of its officers (see section 3.2 of Chapter II of this report).
- 3.4.6. Provide the PGR, in accordance with the available resources, with the human and financial resources needed for it to implement mechanisms to inform the public about its functions and activities and about how to pursue formalities and process complaints or allegations with it, and for the public to have access to its accountability mechanisms, if possible using modern information access technologies (see section 3.2 of Chapter II of this report).
- 3.4.7. Take the appropriate steps for the PGR's web site to be able to serve as a useful tool for disseminating information about its objectives and functions, about the procedures established for discharging its duties, about how to pursue formalities with the agency, about accessing accountability mechanisms, among others. (see section 3.2 of Chapter II of this report).
- 3.4.8. Providing the PGR with the human and budgetary resources needed for it to fully discharge its duties, in accordance with the available resources (see section 3.2 of Chapter II of this report).
- 3.4.9. Adopt the measures necessary so that the PGR may, as legal representative of the State in its capacity as the victim, bring actions or measures in the cases that the MP do not proceed to prosecute acts of corruption (see section 3.2 of Chapter II of this report).

- 3.4.10. Take the steps necessary to implement a mechanism that will allow the detection and punishment of corrupt practices in cases when civil servants transfer their assets to third parties to avoid the payment of economic redress to the State in cases of civil, administrative, or criminal responsibility (see section 3.2 of Chapter II of this report).
- 3.4.11. Promote and strengthen mechanisms for coordination and mutual assistance in the detection, investigation, prosecution, and punishment of acts of corruption among the oversight agencies with responsibilities in that area, where applicable, in addition to those already in place, and further ensure that the existing ones are fully operational (see section 3.2 of Chapter II of this report).
- 3.4.12. Conduct the necessary negotiations with other states and cooperation agencies to provide the PGR with the technical cooperation necessary to develop cooperation mechanisms to punish acts of corruption (see section 3.2 of Chapter II of this report).
- 3.4.13. Break down the statistical information on the prevention of corrupt acts in such a way as to obtain data that clearly indicate the preventive actions taken over the past five years, in order to identify challenges and recommend corrective measures (see section 3.3 of Chapter II of this report).
- 3.4.14. Undertake the regulatory measures necessary so that conciliation agreements that go beyond what is provided for in constitutional and criminal law are no longer used in connection with acts of corruption to cancel proceedings on the grounds that a corrupt official has already made redress for the harm inflicted on the State (see section 3.3 of Chapter II of this report).
- 3.4.15. Complete and break down the statistical information on the investigation of acts of corruption, including data to clearly indicate: how many cases are ongoing; how many have been suspended for whatever reason; how many have been shelved because of the expiration of the established deadlines; how many have been shelved without a decision being reached on the merits of the case; how many are at a stage that allows a decision to be taken on the merits of the case; and how many have been referred to the competent authority for such a decision to be adopted, in order to identify challenges and recommend corrective measures (see section 3.3 of Chapter II of this report).
- 3.4.16. Complete the statistical information on the punishment of acts of corruption, including updated and broken down data that clearly indicates: the total number of investigated cases ready for a decision in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were found or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were issued; the number of those decisions involving the extinction of the punishment or responsibility because the decision was not adopted within the stipulated deadline; and the amount of the fines imposed or of the redress to the State ordered and received by the public coffers in each of the past five years, in order to identify

challenges and recommend corrective measures (see section 3.3 of Chapter II of this report).

4. JUDICIAL BRANCH (PJ)

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

[178] The Judicial Branch (PJ) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[179] The Constitution of the Republic states that the power to impose justice stems from the people and that justice is served free of charge in the name of the State by independent magistrates and judges who are subject solely to the Constitution and law, and that the judiciary comprises a Supreme Court of Justice, appeals courts, regular courts, and other agencies specified by law and created by the Supreme Court of Justice (Article 303).

[180] In addition, the Law on the Organization and Powers of the Courts (LOAT) states that the power to judge and to execute judgments belongs exclusively to the courts of justice (Article 1).

[181] The Supreme Court of Justice has the following powers: organizing and directing the judiciary; hearing proceedings brought against the State's most senior public officials and members of Congress; hearing on the second instance such matters as the Appeals Courts hear at the first instance; hearing extradition proceedings and other matters that are to be judged in accordance with international law; hearing cassation, habeas corpus, habeas data, "*amparo*", review, and unconstitutionality remedies, in accordance with the Constitution and law; authorizing those who have received the title of attorney to serve as notaries; hearing pretrial first-instance proceedings against Appeal Court judges; appointing and removing magistrates and judges at the proposal of the Council of the Judicature and the Judicial Career; publishing the Judicial Gazette; preparing the proposed budget of the Judicial Branch and submitting it to Congress; establishing territorial divisions for judicial purposes; creating, eliminating, merging, and transferring courts, appeals courts, and other agencies of the judiciary; adopting its Internal Regulations and other provisions necessary for discharging its functions; and others assigned to it by the Constitution and law (Constitution, Article 313).

[182] The Judicial Branch enjoys full administrative and financial autonomy. In the Republic's General Budget of Income and Expenditure, it is to have an annual allocation of no less than three percent (3.0%) of current revenue. The executive branch of government shall accredit, on a quarterly advance basis, the corresponding budgetary assignments (Constitution, Article 318).

[183] Regarding the exceptions to its powers, the Constitution states that no person may be judged except by a competent court or judge, with the formalities, rights, and guarantees provided for by law. While courts-martial are recognized for military crimes and misdemeanors, military courts may not, however, hold jurisdiction over persons not on active service in the armed forces, except for those cases in which the law offers exceptions (Article 90).

[184] The decisions of the Supreme Court of Justice (CSJ) are adopted by the majority vote of all its members, while those of the lower courts vary depending on the applicable regulations: ranging from

single-person decisions at magistrates' courts, sentencing courts, and courts of execution of sentences and security measures, to majority voting in sentencing courts and appeals courts.⁵⁵

[185] Parties may lodge remedies for repetition with the first-instance court; appeals with the higher courts; and review, cassation, and “*amparo*” remedies with the Supreme Court of Justice. Some remedies are restricted to certain actions and decisions, and so not all courts admit appeals.⁵⁶

[186] The justices of the Supreme Court are elected by Congress for a period of seven years, with the favorable vote of two thirds (2/3) of the total number of members, from a shortlist of no fewer than three (3) names for each judicial position to be filled. Nominations are prepared by a Nominations Board, comprising representatives of the State and civil society (including the National Human Rights Commissioner, the Bar Association, a representative of the universities, one from the private sector, and one from the organized labor sector). The Court is composed of fifteen (15) justices and it submits annual reports on its undertakings to Congress⁵⁷ (Constitution, Articles 308, 311, and 314).

[187] Judges and magistrates may not be removed, suspended, transferred, demoted, or retired except for the grounds and with the guarantees provided for in law (Constitution, Article 317).

[188] The Judicature Council is responsible for appointing and removing judges of appeals courts and regular courts, together with other judicial officers and assistants and administrative and technical staff (Law of the Judicature Council and the Judicial Career, Article 3).

[189] The judiciary has a Judicial Branch Post Classification and Salary Manual, and training events are held on the functions of those positions.⁵⁸

[190] The CSJ has computers, fax machines, and other technological tools to facilitate its work.⁵⁹

[191] Regarding the way the public is informed about the objectives and functions of the PJ, the procedures established for the fulfillment of its responsibilities, and how to pursue formalities with the PJ, the CSJ reports that this information is provided on a personal basis at offices across the nation, as well as through the radio, newspapers, pamphlets, hearings, citizen attention offices, etc. In addition, it reported the existence of prepared forms to assist users in lodging complaints and other actions against judicial employees and officers, and it noted that information was also provided through the Judicial Branch's web site.⁶⁰

[192] Regarding the interinstitutional coordination mechanisms available to the PJ, during the on-site visit the State under review reported that they included: the Interinstitutional Criminal Justice Commission, which is made up of senior public officials from the agencies of the criminal justice system and was created by Legislative Decree 248-2010; a Transparency Officer, who serves as a liaison with the Public Information Access Institute (IAIP); a liaison officer with the Interinstitutional Commission for the Prevention of Money Laundering and the Funding of Drug Trafficking (CIPLAFT); and a liaison officer with the Financial Crime Unit of the National Banking and

55. Response of the Republic of Honduras to the questionnaire, p. 8.

56. *Ibid.*

57. *Ibid.*, p. 9.

58. Response of the Republic of Honduras to the questionnaire, p. 13.

59. *Ibid.*, p. 15.

60. *Ibid.*, p. 16.

Insurance Commission (UDFCNBS), which is currently the same person as the CIPLAFT liaison officer.⁶¹

[193] Also during the on-site visit, the representatives of the PJ noted that, as mechanisms for obtaining public support, the Interinstitutional Criminal Justice Commission brings together representatives of social and municipal organizations for them to offer opinions and proposals and to participate in initiatives for improving the administration of criminal justice, including anticorruption efforts.⁶²

[194] Regarding accountability, the Supreme Court of Justice presents an annual report to the nation at the closure of the Congressional year. Those annual reports are published on the Transparency Portal of the CSJ's web site.⁶³

[195] Regarding the mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of its objectives and to the performance of its personnel, during the on-site visit the State under review spoke of the PJ's "Justice in Action" program, which is a mechanism for receiving complaints and about which information may be found through the Transparency Portal on the PJ's web site. Those complaints and allegations are channeled through the office of the Inspector of Courts and the Judicial Career, which is the body responsible for judicial oversight.⁶⁴

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

[196] The Judicial Branch (PJ) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in Section 4.1 of this report. Nevertheless, the Committee deems it appropriate to make a number of observations in relation thereto:

[197] First, the Committee notes that during the on-site visit, the Judicial Branch (PJ) stated that it does not have an organic law. A bill is before Congress, but it has not yet been passed. The Committee will formulate a recommendation (see recommendation 4.4.1 in Chapter II of this report).

[198] Second, during the on-site visit, the PJ's representatives spoke of the need to create specialized sentencing courts for corruption cases. It should also be noted that during interviews held on that occasion with the representatives of the Superior Court of Accounts (TSC), mention was made of the need to create expert courts for handling corruption cases, with judges with legal training and experience in the appraisal of evidence, including appraisals of the TSC's auditing reports in corruption offenses, which currently represents a weakness in the system. This same topic was raised by the representatives of the Public Prosecution Service (MP), who suggested recommending the creation of special judges for corruption matters, similar to the special judges who exist for offenses related to organized crime; they also spoke of the need to professionalize the existing judges as regards their appraising of the TSC's auditing reports. The Committee will formulate recommendations on these points (see recommendations 4.4.2 and 4.4.3 in Chapter II of this report).

61. See presentation at http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

62. See presentation at http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

63. Response of the Republic of Honduras to the questionnaire, p. 23. Presentation by the Judicial Branch during the on-site visit http://www.oas.org/juridico/spanish/mesicic4_hnd.htm. Transparency Portal of the CSJ: <http://www.poderjudicial.gob.hn/transparencia/procedimiento/Paginas/default.aspx>.

64. See http://www.oas.org/juridico/spanish/mesicic4_hnd.htm.

[199] In addition, during the on-site visit, the Bar Association also underscored the need to create specialized courts for corruption offenses, with judges trained on the topic and in the forensic assessment of evidence.

[200] Third, the Committee notes that during the on-site visit, the PJ stated that one of its difficulties was the delay in the Public Prosecution Service's bringing of criminal action, as a result of which statutory limitations were frequently triggered in the proceedings before they could be brought to court. In addition, they noted the weaknesses in investigations caused by the absence of specialized police officers to assist the MP in corruption cases and by the lack of specialized personnel within the National Directorate of Special Investigations. Those two topics have been analyzed in the section covering the MP (see recommendations 2.4.2, 2.4.6, and 2.4.11 in Chapter II of this Report.)

[201] Fourth, the Committee notes that during the on-site visit, the PJ's representatives stated that under Article 57 of the current Code of Criminal Procedure, four sentencing judges are required to deal with each case simultaneously,⁶⁵ they explained that the article in question was a throwback to the previous inquisitorial system, which had generated a great deal of mistrust. However, since this has been relegated to the past with the adoption of the adversarial system, they said it would make much more sense to distribute cases more efficiently, allowing each to be dealt with by a single judge instead of occupying four simultaneously. In addition, they reported that efforts were underway to eliminate preliminary hearings and leave only the initial hearing, which would help to expedite the process. The Committee will formulate a recommendation (see recommendation 4.4.4 in Chapter II of this report).

[202] Fifth, the Committee notes that during the on-site visit, the representatives of the PJ spoke of the need to improve interinstitutional coordination between the PJ, the TSC, the PGR, and the MP; they went on to say that the Interinstitutional Commissions were not operating as they should and they emphasized the need to amend the legal framework for anticorruption efforts. The Committee will formulate recommendations on this matter (see recommendations 4.4.5 and 4.4.6 in Chapter II of this report).

[203] In addition, during the on-site visit, the National Anticorruption Council (CNA) stated that the Interinstitutional Anticorruption Commission of Honduras (CIAH) had drawn up a proposal for a comprehensive anticorruption policy in Honduras and had presented it to the executive branch as a bill for referral to Congress, underscoring the need for a legal framework for an anticorruption law.

[204] Similarly, it should also be noted that during the on-site visit, the civil society organizations "Association for a More Just Society (ASJ)" and "Federation of Private Organizations for the Development of Honduras (FOPRIDEH)" stated that were enormous shortcomings in interinstitutional coordination between the justice oversight bodies, along with a duplication of efforts, all of which furthered impunity.

[205] Sixth, the Committee notes that during the on-site visit, the PJ emphasized the need to harmonize the criteria used by judges in appraising the TSC's auditing reports; it stated there was probably a need for a legislative amendment that would give those reports the force of evidence, as is the case in the civil arena. This topic was also raised by the MP during the on-site visit: its

65. Article 57 of the Code of Criminal Procedure provides: "*Exclusive Competence of Sentencing Courts. Sentencing courts, comprising four judges, shall hear the oral and public proceedings described in this Code. In each trial, only three (3) of them shall participate; the fourth shall be present for the discussions at all times in order to replace any one of them in the event of a serious impediment.*"

representatives stating that judges responsible for processing corruption offenses often did not understand that the auditing reports of the Superior Court of Accounts (TSC) were technical audits that could serve as evidence in criminal cases, such as cases of illicit enrichment and other corruption offenses, and not merely as complaints still pending investigation. They added that these interpretations by the judges are isolated and do not follow any established precedent, but they represent a chronic problem and efforts should be made to unify the criteria used (see recommendation 4.4.7 in Chapter II of this report).

[206] Also during the on-site visit, the representatives of the Association of Prosecutors stated that there was no consistency in judicial rulings, and that acquittals had been ordered on the grounds that the TSC's procedure had not been completed, while other judges had issued convictions in spite of the procedures being incomplete.

[207] Seventh, the Committee notes that during the on-site visit, the PJ said one of its difficulties was that the office of the Inspector of Courts and the Judicial Career, which is the agency responsible for judicial oversight, had problems with its ability to respond to complaints and suits, which is supposed to take place within a period of 30 days. They added that this was often due to operational problems, such as the need to travel to investigate a situation, as a result of which the process can take up to 90 days. They stated that there was a need for a diagnostic assessment to analyze the problem so that when the Judicature Council draws up the new regulations, this is taken into account. They also noted that although anonymous complaints were permissible, the system suffered from a number of weaknesses and they therefore suggested that a venue for conflict resolution could be established within such proceedings. The Committee will formulate recommendations (see recommendations 4.4.8 and 4.4.9 in Chapter II of this report).

[208] Eighth, the Committee notes that during the on-site visit, the PJ explained that the "Justice in Action" program was the mechanism currently being used to receive complaints and allegations, prior to their referral to the office of the Inspector of Courts and the Judicial Career. They noted that only one person was assigned to receive those complaints and allegations, and that public awareness about this program had to be raised. They also underscored the need for trained personnel to deal with the public and that perhaps this program could be incorporated into the Law on the Inspector's Office. The Committee will formulate a recommendation (see recommendation 4.4.10 in Chapter II of this report).

[209] Ninth, as regards the topic of human resources, the Committee notes that during the on-site visit, the PJ reported that there was currently a regulatory vacuum, in that the new Law of the Judicature Council and Judicial Career (LCJCJ), in repealing the previous Judicial Career Law (LCJ), its Regulations, and the Internal Regulations of the Council of the Judicial Career,⁶⁶ did not stipulate in its final transitory provisions how the PJ's human resources would be regulated until such time as the recently created Judicature Council could enact new regulations and manuals.⁶⁷

[210] Thus, Article 70 of the LCJCJ provides: "*Within a maximum of one year following the installation of the [Judicature] Council, it shall draft and adopt the regulations and manuals necessary for the functioning of its agencies and attached services, evaluation committees, judicial hierarchy, inspection of courts and judicial school, and it shall also adopt the measures necessary so that each of those may discharge their duties as provided for in this law, which prior to their adoption shall be discussed with the interested parties.*"

66. Law of the Judicature Council and the Judicial Career (LCJCJ), Article 75.

67. LCJCJ, Articles 1 to 3.

[211] Irrespective of the foregoing, and in spite of the fact that the LCJCJ came into force in November 2011, to date the Judicature Council has not been established; consequently, the Judicial Career System does not have its applicable regulatory authority, nor have the corresponding regulations and manuals been issued.

[212] On this point, the PJ's representatives said that on account of this situation, competitions to fill vacancies could not be held and, as a result, all appointments were being made directly on an emergency or interim basis. In addition, they explained that under the previous system, if an officer appointed on an emergency or interim basis remained in that position for six months, he or she was deemed to have acquired the rights of permanent employee, thereby avoiding the competitive process.

[213] Similarly, during the on-site visit, the PJ also noted that the disciplinary regime for the institution's officials was set down in the regulations of the repealed LCJ. Since the Judicature Council has not been established and since no regulations of the matter have been issued, neither are there any disciplinary proceedings in the PJ. In light of all the above, the Committee will formulate recommendations (see recommendations 4.4.11, 4.4.12, and 4.4.13 in Chapter II of this report).

[214] On this point, during the on-site visit the representative of the Honduran Council for Private Enterprise (COHEP) spoke of the deficiencies in the selection process for justice operators and emphasized the lack of transparency in those appointments and the failure to implement the career.

[215] Tenth, regarding management and quality control systems, the Committee notes that during the on-site visit, the PJ reported that it had operations manuals for the IT area in place, but that there were no working procedure manuals at administrative entities, and that's there was therefore a need to develop them in order to improve. For the jurisdictional area, they said that manuals have been prepared for justices of the peace and magistrates but not for other judges, and they underscored the need to create work processes. They also reported the lack of an integrated system for quality management. The Committee will formulate a recommendation (see recommendation 4.4.13 in Chapter II of this report).

[216] Eleventh, regarding internal controls, the Committee notes that during the on-site visit the PJ reported that there was no commitment toward the safeguarding of electronic or written information either upon beginning or during service or following separation. They also reported that when employees join or leave the agency's service, there have been cases in which they do not return under inventory electronic or physical case files; officials do not want to take receipt of them; or they are destroyed them, thus harming the judicial branch's information. They reported that no sanctions exist specifically for such cases, nor is there any provision whereby separation benefits are withheld until all electronic and physical case files are returned under inventory. They also noted that all officials should be required, upon taking up a post, to sign an ethical commitment setting out the obligations that accrue to the post and the consequences of destroying or not returning electronic and physical case files to the PJ. The representatives added that although a set of file regulations was in place, there was no provision with regard to a memorandum of commitment to protect against the misappropriation or improper destruction of information belonging to the PJ.

[217] On this point, the PJ's representatives noted that the control mechanisms had to be strengthened and they suggested working with the Internal Auditing Unit or identifying another type of control mechanism and that as soon as a suit is lodged, the case documents should be scanned into electronic format. They pointed to the need to create an integrated file management system,

preferably electronic. They said that although such systems were in place in certain lower courts in Tegucigalpa and San Pedro Sula, they were absent across the rest of the system. The Committee will formulate a recommendation (see recommendation 4.4.15 in Chapter II of this report).

[218] Twelfth, during the on-site visit the representatives of the National Banking and Insurance Commission (CNBS) underscored the need for and importance of an effective mechanism to follow up on criminal proceedings, and the results thereof, brought on the basis of information provided by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption, either at their request or on an ex officio basis. Based on the foregoing, and considering the importance of interinstitutional cooperation and coordination in the fight against corruption, the Committee will formulate a recommendation for the implementation of such a mechanism (see recommendation 5.4.1 in Chapter II of this report).

[219] Finally, in its reply the State under review indicated that its technical cooperation needs include technical advice for the drafting of more effective regulations for the prevention, detection, and sanction procedures of the office of the Inspector General of Courts under the aegis of the Law of Judicature Council, together with training on the handling of corruption cases, protecting the interests of the victims, and ethics in managing such cases.⁶⁸ The Committee will formulate a recommendation (see recommendation 4.4.16 in Chapter II of this report).

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

[220] Based on the response of the country under review to the questionnaire and the on-site visit, information was gathered regarding the results obtained by the Judicial Branch (PJ), of which the Committee notes the following:

[221] First, in connection with its duty of preventing acts of corruption over the past five years, the Committee notes that in its reply, the State under review reports that a systematized training process on anticorruption matters for justice officials has been launched, an agreement on anticorruption efforts has been signed between the judiciary and the National Anticorruption Council and is currently at the preliminary draft level, and the Transparency and Justice in Action units have been created, both of which entail the simultaneous production of anticorruption preventive measures.⁶⁹ However, the Committee also notes that this information is not broken down by year, nor does it offer statistical data on the results obtained over the past five years. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 4.4.17 in Chapter II of this report).

[222] Second, regarding its duty of detecting acts of corruption that trigger disciplinary, administrative, economic, civil, or criminal responsibility for the persons involved therein over the past five years, the Committee notes that in its reply, the State under review reports that during 2011, internally, the Judicial Branch, whose oversight agency is the office of the Inspector General of Courts and Tribunals, *“reported a total of seven hundred and thirteen (713) complaints admitted, of which one hundred and sixty eight (168) were referred to the Judicial Career Personnel Administrative Directorate after finding they had sufficient merit to begin disciplinary proceedings, and twenty-five (25) were referred to the Public Prosecution Service after finding they could indicate the commission of crimes. In addition, at the national level a total of six hundred and seventy five*

68. Response of the Republic of Honduras to the questionnaire, p. 33.

69. Response of the Republic of Honduras to the questionnaire, p. 25.

(675) *preventive inspections were carried out.*"⁷⁰ The Committee notes that this information covers only the year 2011 and that information for the other four years is absent. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 4.4.18 in Chapter II of this report).

[223] Third, as regards its jurisdictional duty of punishing corrupt acts, the Committee notes that the PJ furnished no information on results, and that during the on-site visit, the agency's representatives stated that they had no database that could produce statistical data on the topic and added that they lacked the equipment and capacity to do so. They also stated that although their Electronic Documentation Center has a statistics section, it is very small and lacks the necessary capacity. They explained that the information was gathered by means of printed forms that the courts submit at the end of each month using a courier service because of connectivity problems, particularly in communities outside Tegucigalpa where the electric grid does not always work and there are no computers or modern data-processing systems. E-mail is intended solely for the administrative area and not for the jurisdictional agencies. In addition, the data are input by hand into an Excel system since there are no computer systems for receiving statistics.

[224] They also reported that the Electronic Documentation Center has four staff members to serve the entire judiciary, and that in addition to technology and personnel, they require training for the people charged with gathering data on the nature of corruption offenses. In addition, they spoke of the need to define indicators to yield specific qualitative information. Based on the information available, the Committee believes that it is unable to offer a comprehensive analysis of the topic and will formulate recommendations (see recommendations 4.4.19, 4.4.20, and 4.4.21 in Chapter II of this Report.)

4.4. Conclusions and recommendations

[225] Based on the comprehensive analysis of the Judicial Branch (PJ) offered in the preceding sections, the Committee offers the following conclusions and recommendations:

[226] The Republic of Honduras has considered and adopted measures for maintaining and strengthening the Judicial Branch (PJ) as an oversight body, as indicated in section 4 of Chapter II of this report.

[227] In view of the comments made in that section, the Committee suggests that the State under review consider the following recommendations:

- 4.4.1. Consider enacting the Organic Law of the Judicial Branch and the related regulations (see section 4.2 of Chapter II of this report).
- 4.4.2. Create specialized courts for corruption cases, with judges with legal or technical training and experience in appraising evidence, including the appraisal of the auditing reports of the Superior Court of Accounts (TSC) in the prosecution of corruption offenses (see sections 1.2, 2.2, and 4.2 of Chapter II of this report).
- 4.4.3. Provide training in the appraisal of evidence, including appraisals of the TSC's auditing reports, for those judges responsible for prosecuting corruption offenses (see sections 1.2, 2.2, and 4.2 of Chapter II of this report).

70. *Ibid.*

- 4.4.4. Take the steps necessary to speed up legal proceedings, considering the possibility of reducing the number of hearings and the possibility of amending Article 57 of the Code of Criminal Procedure, so that cases can be distributed more efficiently (see section 4.2 of Chapter II of this report).
- 4.4.5. Promote and strengthen mechanisms for coordination and mutual assistance in the detection, investigation, prosecution, and punishment of acts of corruption among the oversight bodies with responsibilities in this area, where applicable, in addition to those already implemented, and ensure that those that exist are fully operational (see section 4.2 of Chapter II of this report).
- 4.4.6. Consider taking the legislative measures necessary to create a legal framework for anticorruption that sets out a comprehensive policy on the topic (see section 4.2 of Chapter II of this report).
- 4.4.7. Take the measures necessary to standardize the criteria used by judges in assessing evidence in corruption cases, including that provided by the audit reports of the TSC (see section 4.2 of Chapter II of this report).
- 4.4.8. Strengthen the office of the Inspector of Courts and the Judicial Career, taking the steps necessary to expedite its processing of complaints and allegations, so that deadlines can be met correctly (see section 4.2 of Chapter II of this report).
- 4.4.9. Take the steps necessary to create a venue for conflict resolution, when applicable, within the complaints and allegations procedures followed by the office of the Inspector of Courts and the Judicial Career (see section 4.2 of Chapter II of this report).
- 4.4.10. Strengthen the procedure for receiving complaints and allegations, assigning sufficient trained personnel for discharging those tasks and for dealing with the public and informing the public of the existence of this process (see section 4.2 of Chapter II of this report).
- 4.4.11. Take the regulatory measures necessary to resolve the problem of the legislative vacuum and legal uncertainty caused by the nonexistence of regulations for the Judicial Career System following the repeal of the previous Judicial Career Law and the failure to regulate the new Law of the Judicature Council and Judicial Career, adopting, if necessary, temporary measures until such time as the Judicature Council can enact the new manuals and regulations (see section 4.2 of Chapter II of this report).
- 4.4.12. Ensure that admission to service in the Judicial Branch is through public merit-based competitions, observing the principles of disclosure, equity, and efficiency and preventing the waiver of this procedure for any reason (see section 4.2 of Chapter II of this report).
- 4.4.13. Establish, as promptly as possible the Judicature Council, as the agency charged with implementing and regulating the Judicial Career System (see section 4.2 of Chapter II of this report).

- 4.4.14. Prepare documented procedures for carrying out tasks in all areas of the PJ, including manuals or guidebooks on those functions, and an integrated system for quality management (see section 4.2 of Chapter II of this report).
- 4.4.15. Take the measures necessary to ensure the safekeeping of judicial case files, including the implementation of an integrated file management system and measures to ensure that the officers responsible for those files hand them over in full upon leaving the service, together with sanctions for anyone who mutilates, alters, or destroys case files (see section 4.2 of Chapter II of this report).
- 4.4.16. Pursue the necessary steps with other states and cooperation agencies to provide the PJ with the technical cooperation needed to prepare more effective regulations for the prevention, detection, and sanction procedures of the office of the Inspector General of Courts under the aegis of the Law of the Judiciary Council, together with training on the handling of corruption cases, protecting the interests of the victims, and ethics in managing such cases (see section 4.2 of Chapter II of this report).
- 4.4.17. Break down the statistical information on the prevention of acts of corruption in such a way as to obtain data that clearly indicate the preventive actions taken over the past five years, in order to identify challenges and recommend corrective measures (see section 4.3 of Chapter II of this report).
- 4.4.18. Complete and break down the statistical information on the detection of acts of corruption, so that it includes data that clearly indicate how many investigations have been started in each of the past five years, how many remain ongoing, how many have been suspended for whatever reason, how many have been shelved because of the expiration of the established deadlines, how many have been shelved without a decision being reached on the merits in the case under investigation, how many are at a stage that allows a decision to be reached on the merits of the case under investigation, and how many have been referred to the competent authority for such a decision to be adopted, in order to identify challenges and recommend corrective measures (see section 4.3 of Chapter II of this report).
- 4.4.19. Provide the statistics area of the Judicial Branch with the human and budgetary resources necessary for full compliance with its functions, in accordance with the available resources, and with the training and technological resources needed for it to be able to gather data and produce the pertinent statistics (see section 4.3 of Chapter II of this report).
- 4.4.20. Develop statistical data on the results of the function of punishing acts of corruption that trigger criminal responsibility for the persons involved therein, so as to indicate the total number of decisions adopted in connection with those cases, how many led to the establishment of responsibility or sanctions, how many did not lead to the establishment of responsibility or sanctions, and how many decisions ruled on the triggering of statutory limitations for the sanction or the extinction of responsibility through a failure to adopt a decision within the

established deadlines, in order to identify challenges and recommend corrective measures (see section 4.3 of Chapter II of this report).

- 4.4.21. Develop statistical data on the results of its duty of sanctioning the acts of corruption over which it has jurisdiction that trigger economic or civil responsibility for the persons involved therein, to indicate the amount of the fines imposed or economic redress to the State ordered and admitted to the state coffers over each of the past five years, in order to identify challenges and recommend corrective measures (see section 4.3 of Chapter II of this report).

5. NATIONAL BANKING AND INSURANCE COMMISSION (CNBS)

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

[228] The National Banking and Insurance Commission (CNBS) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[229] The National Banking and Insurance Commission (CNBS) is a deconcentrated agency of the office of the President of the Republic, with functional and budgetary independence and enough administrative powers to ensure its technical and financial ability to pursue its objectives (Law of the National Banking and Insurance Commission (LCNBS, Article 1).

[230] The powers and duties of the CNBS include: reviewing, verifying, controlling, overseeing, and monitoring its supervised institutions; prohibiting the pursuit of operations or functions, the provision of services, or the sale of financial or insurance products that violate laws or that could endanger the stability of the supervised institution; and imposing the applicable sanctions and fines for infractions committed by supervised institutions and, when legally admissible, ordering the intervention, liquidation, or closure of those institutions (LCNBS, Article 13).

[231] The Law of Insurance and Reinsurance Institutions, Title V (“Supervision and Accounting Operations”), Article 113, provides: “*The functions of supervising, overseeing, and controlling the institutions and other bodies subject to this law shall be performed by the Commission through the Superintendency. To this end, the technical unit specializing in insurance and related matters shall be established...*”

[232] The CNBS’s decisions are adopted by means of resolutions. The CNBS meets in regular or special sessions. At regular sessions, its decisions are adopted by a simple majority vote. In exceptional cases, as determined by its Regulations, they shall be agreed on unanimously. Resolutions of the CNBS may be challenged by means of replacement remedies logged with the institution itself (LCNBS, Articles 7 and 8).

[233] The CNBS comprises three (3) full Commissioners, appointed by the President of the Republic from a list of six (6) candidates proposed by the Board of the Central Bank of Honduras, and it is chaired by the Commissioner named by the President of the Republic in the Appointment Agreement; they are to remain in office for four (4) years and may be appointed to serve additional periods; and they may be removed by the President of the Republic for violations of this law, as provided for in Article 12.c of its law. Commission’s Law, Article 2)

[234] The Commissioners are held accountable for their actions by the President of the Republic and the State Oversight Agencies; officers and employees of the Commission who fail to meet their

duties set in the Law and in its Regulations shall be subject to the applicable disciplinary sanctions, regardless of the civil or criminal responsibility that the punishable act may also entail (Law on the National Banking and Insurance Commission, Article 24).

[235] The human resources of the National Banking and Insurance Commission (CNBS) are determined by its law and by the rules, manuals, and regulations in force. Decree No.155-95 of November 18, 1995, sets out the requirements for being a member of the CNBS, how it is composed, how its officers are selected, elected, and appointed, and the situations in which their service may be terminated (Articles 2, 3, and 12).

[236] Article 13, sections 16 and 24, empower the Commission to appoint, suspend, and dismiss the Secretary and the Superintendent and, on the proposal of the latter, the officers and employees of the Superintendency, together with its advisors. They shall also issue the regulations and other provisions necessary for the Commission to function.

[237] Article 17 sets the requirements for appointment as Superintendent, who shall be appointed by the CNBS for a period of office of five years and shall be eligible for reappointment for an additional period. They may only be removed or suspended for good reason, with the unanimous vote of the Commission.

[238] Article 19 states that the staff of the Superintendency are to be appointed by the CNBS, upon completion of the selection procedure it establishes. Those employees shall have the technical and academic training – and experience, if applicable – for the positions they are to hold within the Commission.

[239] The same provision states that the CNBS's officers and employees are governed by the staff rules that it enacts and, on a complementary basis, by the provisions of the Labor Code. The staff rules referred to in the previous paragraph are to include guarantees, acquired rights, job stability, promotions, removals, leaves of absence, the disciplinary regime, performance evaluations, salary policies, and other related matters.

[240] Article 24 states that officers and employees of the CNBS who fail to meet the duties set out in the law and its regulations, who abuse their rights, or who violate established rules, shall be subject to the corresponding disciplinary sanctions. Those actions shall be independent of the civil or criminal responsibility that the violation may trigger. Offenses committed by officers and employees shall cause disciplinary action even when criminal action is brought or the violator is no longer in the agency's employment. When a sanction cannot be imposed because the violator has left the agency's employment, an indication thereof shall be left on his service record to serve as an background information or impediment.

[241] Resolution No. 089/26-01-2005 adopted the staff rules, which contain regulatory provisions to facilitate the better enforcement of the law and the more expeditious execution of management programs for the agency's human resources. Chapter IV, Article 8, of this documents sets out entry requirements; Chapter V, Article 9, grounds for inadmissibility for employment; Chapter VI, Articles 10 to 15, deals with staff selection and appointment; Chapter IX, Article 29, addresses temporary workers; and Chapter X, Articles 30 to 41, covers salaries.

[242] In its reply, the State under review reports that all the regulations described above are in force and are applied by the Human Resources Division in accordance with the area's standard procedures;

and that they allow hirings in accordance with the requirements, after the candidate has gone through a selection process including internal and external competitions, an initial interview, psychometric tests, a test of knowledge in light of demonstrated experience, and the necessary medical examinations.⁷¹

[243] The National Banking and Insurance Commission has implemented a Career Plan based on skills-based human talent management, which is put into practice with the manuals and documents described below: Strategic and Operational Plan for Human Resources; Skills-based Certification Program for Human Resource Management Specialists; Surveying and Improving Human Resource Processes; Design of the CNBS's Organizational and Functional Structure; Technical Standard for Human Resources; Dictionary of Skills and Behaviors; Skill-based Post Classification Manual; Post Assessment Manual and Proposed Wage Scale; Manual for Merits-based Payment Personnel Recognition; a computer system for skills-based human resource management, called COMPERS; 360-degree Performance Evaluation; and Measurement of Labor Climate.⁷²

[244] In its reply, the State under review indicates that the COMPERS systems offers a series of alternatives for training, according to the performance evaluation applied, and these training alternatives are received by officers and employees, in accordance with the available budget; in other words, those alternatives are the basis for the current training plan, and monthly controls are carried out of the training received by officers and employees. In addition, the CNBS has a training plan for programming the different training exercises held throughout the year for both technical and administrative staff of all levels.⁷³

[245] Regarding documented processes for discharging its tasks, the CNBS has an Operating Process Manual that is intended to provide uniform criteria and elements to allow its staff to identify processes for defining and designing procedures for each of its offices, contributing to the comprehensive drafting of the process and procedure manuals that are to be prepared in each one of them. In addition, the State under review reported that work had begun on preparing the bases for the implementation of a quality system, with the approval of a Code Allocation Guide for document identification.

[246] Similarly, in compliance with the recommendations of the International Financial Action Task Force (FATF) and the Egmont Standards to establish guidelines to be met by all financial information units, the CNBS's Financial Information Unit (FIU) has a Policy and Process Manual, which was adopted by means of the National Banking and Insurance Commission's resolution No. 1538/30-08-2011.⁷⁴

[247] Regarding the manner in which the public is provided with information on its objectives and functions, informed of the procedures established for the performance of its functions, and given guidance on pursuing formalities with it, the CNBS reports that this is done through the Public Information Officer attached to the Financial User Protection Directorate (DPUF). In addition, a financial education campaign has been launched to inform the public of their rights and obligations as users of financial services in their dealings with supervised institutions, and about the functions of the Financial User Protection Directorate in receiving claims not resolved by supervised institutions or deemed unsatisfactory with respect to the users' claims in accordance with the Provisions for

71. Response of the Republic of Honduras to the questionnaire, p. 13.

72. *Ibid.*, p. 14.

73. *Ibid.*

74. Response of the Republic of Honduras to the questionnaire, p. 15.

Strengthened Transparency, Financial Culture, and User Attention in Institutions. In addition, regulations have been drafted for the creation of a risk center that will provide classified information on supervised institutions' debtors and make that information available to them.⁷⁵

[248] Attending to claims, complaints, and allegations related to the pursuit of its objectives and to the performance of its personnel (CNBS) is the task of the Personnel Administration Division, and complaints against supervised institutions are presented to the Financial User Protection Directorate (DPUF).⁷⁶

[249] The CNBS's financial resources are guaranteed by means of the percentage contribution that Article No. 34 of the Law of the National Banking and Insurance Commission establishes for supervised institutions and that is calculated from the balance sheets and profit-and-loss statements as of December 31 of the previous year.

[250] Regarding interinstitutional coordination mechanisms, the State under review indicates that in 2004 it created the Interinstitutional Commission for the Prevention of Money Laundering and the Funding of Terrorism (CIPLAFT), chaired by the President of the CNBS and with secretariat functions performed by the Directorate of the Financial Information Unit (FIU); this provides the FIU with a working forum that is open to the other agencies with responsibilities in the detection, prevention, and punishment of the crime of money laundering and, consequently, predicate crimes.⁷⁷

[251] Also during the on-site visit, the CNBS reported that the institutions with the legal capacity to investigate or request information from the supervised system – including the Superior Court of Accounts (TSC), the Public Prosecution Service, agencies of the judicial system, and the office of the Attorney General of the Republic – pursue formalities through the General Secretariat of the CNBS, which then furnishes that information to a specialized office. In addition, under Article 40 of the Organic Law of the Superior Court of Accounts, which regulates that court's relations with other oversight agencies, an Administrative Agreement was signed with the CNBS on February 28, 2005.

[252] Regarding accountability mechanisms regarding its functions, Article 13 of the Law on Transparency and Access to Public Information stipulates that the institution is obliged to distribute and periodically update, on an ex officio basis and through electronic channels, its general policies, plans, programs and projects, reports, activities, financial statements and budget spending by program. In addition, the General Budget Provisions contained in Decree 255-2011 establish the mechanisms and reports to be presented for the publication of financial statements and accountability reports. Article 6 of that decree states that all centralized, deconcentrated, and decentralized public sector institutions are to submit, within the first twenty (29) days of the close of each quarter, to the Secretary of State of the Finance Office (SEFIN), quarterly reports on the physical and financial execution of the Annual Operating Plan and of the Budget. In addition, follow-ups and evaluations of the annual operating plan and budget are to be performed by all public sector institutions without exception, in accordance with the technical rules and manuals and procedures for the budget, treasury, and accounting subsystems approved by the SEFIN.⁷⁸

75. *Ibid.*, p. 17.

76. *Ibid.*, p. 18.

77. *Ibid.*, p. 22.

78. Response of the Republic of Honduras to the questionnaire, pp. 23-24.

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

[253] The National Banking and Insurance Commission (CNBS) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in Section 5.1 of this report. Nevertheless, the Committee deems it appropriate to make a number of observations in relation thereto:

[254] First, during the on-site visit the representatives of the National Banking and Insurance Commission (CNBS) noted the need for and importance of an effective mechanism to follow up on criminal proceedings, and the results thereof, brought on the basis of information provided by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption, either at their request or on an ex officio basis. Based on the foregoing, and considering the importance of interinstitutional cooperation and coordination in the fight against corruption, the Committee will formulate a recommendation for the implementation of such a mechanism (see recommendation 5.4.1 in Chapter II of this report).

[255] Second, the Committee notes that during the on-site visit, the representatives of the CNBS reported that work was underway on a coordination agreement for sworn statements of net worth between the institution and the Superior Court of Accounts (TSC), which would establish a structure for exchanges of information between the two agencies.

[256] On this point, the representatives of the TSC, who were present during the interviews with the CNBS, explained that the information they receive from the CNBS is much more reliable and complete than what they receive from the banking institutions, particularly when cases of illicit enrichment and other economic offenses are potentially involved. They also explained that investigations for illicit enrichment take between 2 and 2.5 years because of problems with the information that the banking institutions are asked to furnish: they are slow to do so and, on occasions, even present false information. They added that although there were sanctions for submitting false information, such incidents generally go unpunished. On this point, they said they were exploring the possibility of having the President of the Honduran Association of Banking Associations (AHIBA) also sign the agreement, with the hope that this would help solve the problem. The Committee will formulate a recommendation on this point (see recommendation 5.4.2 in Chapter II of this report).

[257] Third, the Committee notes that during the on-site visit, the CNBS suggested implementing a standardized form for financial information, at both the banks and in the new information system for sworn statements; they added that a circular could be issued, establishing an obligatory standard form for all the banks, in compliance with the TSC's requirements, which would directly guarantee the truthfulness of the information and would include any additional information, particularly for pattern analysis. On that occasion, the representatives of the TSC stated that they would provide the CNBS with the relevant information for designing such a form. The Committee will formulate recommendations (see recommendations 1.4.8 and 5.4.3 in Chapter II of this report).

[258] Fourth, the Committee notes that during the on-site visit, it was suggested that a specific collaboration mechanism could be created with respect to information collected by the TSC, with a view to verification of sworn statements of net worth in order to detect corrupt acts. The Committee will formulate recommendations (see recommendations 1.4.9 and 5.4.4 in Chapter II of this report).

[259] Fifth, the Committee notes that during the on-site visit, mention was made of the need to recognize electronic signatures instead of having to collect the originals of statements. It was noted that this would require a legislative amendment, since the CNBS Law recognizes electronic signatures but the TSC's Organic Law does not. The Committee will formulate a recommendation on this point in the section dealing with the TSC (see recommendation 1.4.10 in Chapter II of this report).

[260] Sixth, the Committee notes that during the on-site visit, the question of inadequacies in the functioning of the interinstitutional coordination mechanisms between the bodies responsible for the prevention, detection, prosecution, and punishment of acts of corruption was a crosscutting topic raised by the Superior Court of Accounts (TSC), the Public Prosecution Service (MP), the Judicial Branch (PJ), and the office of the Attorney General of the Republic (PGR), as well as by the CNBS. Since the CNBS is one of those oversight bodies and is a part of several of those mechanisms, including the Interinstitutional Anticorruption Commission of Honduras (CIAH), and that the difficulties highlighted indicate the need for improvements in the coordination and exchanges of information among the institutions, the Committee will formulate a recommendation (see recommendation 5.4.5 in Chapter II of this report).

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

[261] Based on the response of the country under review to the questionnaire and the on-site visit, information was gathered regarding the results obtained by the National Banking and Insurance Commission (CNBS), of which the Committee notes the following:

[262] First, regarding the actions the CNBS has taken over the past five years to prevent corrupt acts, the Committee notes that neither in the response to the questionnaire nor during the on-site visit did the institution provide any information, in consideration whereof the Committee will formulate a recommendation (see recommendation 5.4.8 in Chapter II of this report).

[263] Second, regarding its functions in the detection of acts of corruption that trigger administrative, economic, civil, or criminal responsibility, the Committee notes that during the on-site visit, the CNBS presented the following summarized charts:

REQUESTS RECEIVED AS OF OCTOBER 4, 2012

DESCRIPTION	TOTAL
Courts of Law	431
Public Prosecution Service	61
Office of the Attorney General	46
Superior Court of Accounts	12
Other institutions (UNAH, TSE, DEI, MP's Filtering and Purging Unit, DIECP, Ministry of the Interior and Population)	15
Total	565

Source: General Secretariat, CNBS

ACTIVITIES OF THE FINANCIAL INFORMATION UNIT (FIU)

Figures as of October 3, 2012

ACTIVITIES	TOTAL
Unusual Transaction Reports received from financial institutions	613
Information Requests sent to obligated institutions	174
Seizure Requests sent to obligated institutions	
International Cooperation Requests for other FIUs through the Egmont web site	27
Compilation of financial and multiple transactions in cash in excess of \$10,000, reported by financial institutions	4,679,443
Compilation of transactions in excess of \$2,000, reported as remittance receipts	29,667
Cases processed by FIU analysts	231
Compliance reports prepared by financial institutions for the monitoring carried out by the Superintendencies of Banks, Financial Institutions, Savings and Loans Agencies, Stockbrokers, and Other Institutions	21

Source: CNBS/FIU

[264] The Committee notes that the information is not broken down by year in such a way that would indicate data for the past five years; neither does it indicate which of these cases ultimately revealed punishable acts and were referred to the competent authority. Based on the information available, the Committee believes that it is unable to conduct a comprehensive analysis of the topic and will formulate a recommendation (see recommendation 5.4.9 in Chapter II of this report).

5.4. Conclusions and recommendations

[265] Based on the comprehensive analysis of the National Banking and Insurance Commission (CNBS) offered in the preceding sections, the Committee offers the following conclusions and recommendations:

[266] The Republic of Honduras has considered and adopted measures to maintain and strengthen the National Banking and Insurance Commission (CNBS) as an oversight body, as indicated in section 5, Chapter II, of this report.

[267] In view of the comments made in that section, the Committee suggests that the State under review consider the following recommendations:

- 5.4.1 Develop an effective mechanism to follow up on the criminal proceedings, and the results thereof, brought on the basis of information provided by the CNBS to the authorities responsible for overseeing the prevention, detection, prosecution, and punishment of acts of corruption (see sections 1.2, 2.2, 3.2, 4.2, and 5.2 of Chapter II of this report).
- 5.4.2 Sign and implement coordination agreements with other oversight agencies responsible for overseeing the prevention, detection, investigation, and punishment of acts of corruption, establishing a structure for exchanges of information between those agencies on sworn statements of net worth and also working to include other

banking associations in order to secure information as expeditiously as possible (see section 5.2 of Chapter II of this report).

- 5.4.3 Implement a standard form for the financial information to be furnished by banking institutions that meets the requirements set by the Superior Court of Accounts (TSC), in order to ensure the quality and truthfulness of the information used in analyzing sworn statements of net worth (see section 5.2 of Chapter II of this report).
- 5.4.4 Create a multidisciplinary team between the TSC and the CNBS to develop a specific collaboration mechanism on information collected by the TSC, with a view to verification of on sworn statements of net worth in order to detect corrupt acts (see section 5.2 of Chapter II of this report).
- 5.4.5 Promote and strengthen mechanisms for coordination and mutual assistance in the detection, investigation, prosecution, and punishment of acts of corruption among the oversight agencies with responsibilities in that area, where applicable, in addition to those already in place, and further ensure that the existing ones are fully operational (see section 5.2 of Chapter II of this report).
- 5.4.6 Take actions to prevent corrupt acts, such as campaigns to publicize the consequences they bring; probity or awareness-raising programs on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society; preparing statistics on results in order to identify challenges and recommend corrective measures (see section 5.3 of Chapter II of this report).
- 5.4.7 Complete and break down the statistical information on the detection of acts of corruption, breaking it down by year and including data that clearly indicates how many requests were received, how many were replied to, how many revealed evidence of punishable acts and how many of these were referred to the competent authority as the result of a request for information, and how many were referred in the past five years, identifying the authority to which the referral was made, in order to identify challenges and recommend corrective measures (see section 5.3 of Chapter II of this report).

III. GOOD PRACTICES

[268] As provided for in section V of the *Analysis Methodology for the Implementation of the Provision of the Inter-American Convention against Corruption Selected for the Fourth Round* and the *Structure* adopted by the Committee for reports in that round, the following section addresses the good practices identified by the State that it wishes to share with the other MESICIC member countries, believing that they could be of benefit to them:

- In connection with the Superior Court of Accounts (TSC):

[269] The TSC has devised a strategy to connect the public more closely with the specific oversight work of the Superior Court of Accounts. This strategy makes use of two mechanisms: first, by receiving, evaluating, and processing citizens' complaints, and, second, through the participation of citizens and civil society organizations in auditing processes. At the end of the audit, the TSC presents the results to the public and encourages the signing of commitments to follow up on compliance with the recommendations issued by the TSC to the senior managers of the audited institutions, and for the TSC to be informed of the results of that follow-up.⁷⁹

IV. FOLLOW-UP ON NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO THE IMPLEMENTATION OF RECOMMENDATIONS SUGGESTED IN THE COUNTRY REPORT IN THE FIRST REVIEW ROUND⁸⁰

[270] This section of the report refers to progress, information, and new developments in Honduras in connection with the recommendations and measures suggested by the Committee in the reports of the First Round that were deemed to require additional attention in the reports of the Second and Third Rounds,⁸¹ and it will proceed to 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, in accordance with provisions contained in section VI of the methodology adopted by the Committee for the Fourth Round.

[271] This section also takes note of any difficulties in implementing the above recommendations and measures to which the country under review may have drawn attention, as well as of technical cooperation it may have requested to that end.

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

1.1. Standards of conduct to prevent conflicts of interests and enforcement mechanisms

Recommendation:

Strengthen the implementation of laws and regulatory systems related to conflicts of interest.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Regulate for all public servants, certain eventualities that could constitute conflicts of interest and which, in view of their importance, should be addressed in a detailed and specific manner, as well as mechanisms that promote compliance with any regulation that is issued.

⁷⁹ Response of the Republic of Honduras to the questionnaire, pp. 103 to 105. See also:

http://www.tsc.gob.hn/participacion_ciudadana.html.

⁸⁰ 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

⁸¹ Available at: <http://www.oas.org/juridico/english/hnd.htm>

[272] In its reply, the State under review provides information and new developments regarding this measure,⁸² of which the Committee notes, as a step that contributes to progress in its implementation, the following:

“(...) the enactment of the Code of Ethical Conduct of Public Servants, adopted by Legislative Decree No. 36-2007 of April 24, 2007, and published in the official journal La Gaceta of October 24, 2007, which regulates, for public servants in general:

- *The existence of conflicts of interest and incompatible activities;*
- *Restrictions for public servants who leave public service, such as a ban on involvement in cases in which they intervened by reason of their past positions or with agencies with which they were recently associated,*
- *Mechanisms to guarantee compliance with the regulation enacted for that purpose.”*

[273] In this regard, the Committee notes that during the on-site visit, the Superior Court of Accounts reported that it had conducted Ethics Inspections, in order to assess the level of ethical compliance in public institutions and the execution of rules or regulations for ethical conduct, in their different administrative areas, such as human resources, procurement, internal auditing, and public attention. In addition, the Probity and Public Ethics Committees have conducted training exercises in each of the public institutions, and the Department of Probity has pursued special investigations to detect different forms of conflicts of interest within the public administration, all of which are additional steps toward the implementation of the above measure.

[274] In addition, the Committee also notes that during the on-site visit, the TSC stated that its difficulties included the lack of technological equipment, means of transportation, and adequate personnel for performing these activities, since requests or orders for training are at the national level and, because of the depressed state of the national economy, the Court does not have the capacity to meet all these expectations.

[275] In this regard, in its reply, the State under review notes, among the difficulties observed in the implementation of the above measure suggested by the Committee, the *“Low budget for carrying out these activities across the entire nation,”* and *“Few or insufficient personnel for successfully carrying out the activity.”*

[276] The Committee takes note of the satisfactory consideration of measure (a) above, regarding the regulation, for public servants in general, of certain situations that could constitute conflicts of interest through the enactment of the Code of Ethical Conduct of Public Servants.⁸³ In addition, the Committee also takes note of the difficulties indicated by the State under review in regards to the implementation of rest of the measure.

[277] In light of the comments provided by the State under review above, measure (a) suggested by the Committee to the State under review with respect to recommendation 1.1.1 in section 1.1, Chapter IV of this report, is hereby reformulated as follows (See Annex I, recommendation 1.1.1, measure a):

82. Response of the Republic of Honduras to the questionnaire, p. 36.

83. See Decree No. 36-2007 at

http://www.tsc.gob.hn/Normativa%20Vigente/CODIGO_DE_CONDUCTA_ETICA_DEL_SERVIDOR_PUBLICO.pdf.

- Implement mechanisms to ensure compliance with the terms of the Code of Ethical Conduct of Public Servants, and provide the Superior Court of Accounts (TSC) with the human and budgetary resources necessary to perform that function.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Establish appropriate restrictions for those who cease to hold a public office, such as the prohibition on working on cases in which they were involved by reason of their position or before entities with which they were recently associated.

[278] In its reply, the State under review provides information regarding this recommendation,⁸⁴ of which the Committee notes, as a step that contributes to progress in its implementation, the following:

[279] “(...) *the amendment of Article 52, final paragraph [of the Organic Law of the Superior Court of Accounts (TSC)], published in official journal La Gaceta No. 31,451 on November 7, 2007, which reads: “Persons who have worked for the Court may not return to its employment until one year has passed since their separation.”*”

[280] In addition, the Committee notes that during the on-site visit, among other difficulties, the TSC spoke of cases of former employees and former consultants of the agency who, once their employment or their contract with the TSC ended, entered into consultancy contracts with municipalities to which they fraudulently promised to “clean up” the case files of audits in which they themselves previously participated.

[281] The Committee takes note of the steps taken by the State under review to advance in its implementation of measure (b) of the recommendation in section 1.1, Chapter IV, of this report, and of the need for it to continue to give attention thereto. Similarly, bearing in mind the difficulties indicated by the State under review, the measure is hereby reformulated as follows (see Annex I, recommendation 1.1.1, measure b):

- Establish adequate restrictions for those public servants who have recently left public positions, or who have concluded a consultancy contract with a public agency, such as disqualification from involvement in cases in which they intervened by reason of their public function, or with those agencies with which they were recently involved, and establish mechanisms for punishing violators.

Measure c) suggested by the Committee:

This measure was considered satisfactory and therefore it is not necessary to report on it.

Measure d) suggested by the Committee:

This measure was considered satisfactory and therefore it is not necessary to report on it.

84. Response of the Republic of Honduras to the questionnaire, pp. 37 and 38.

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

Recommendation:

Strengthen the implementation of laws and regulatory systems with respect to the conservation and proper use of public resources.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Consider the advisability of establishing mechanisms for the selection of the heads and personnel of the internal audit, such as through a merit-based competitive examination process open to the public, governed by pre-established rules and requirements; noting, when appropriate, the duration of the post and establishing the grounds for termination of employment, and requiring consultation with the Superior Court of Accounts before proceeding with terminations, so as to prevent employees from being afraid to perform their duties objectively, as required by law.

[282] In its reply, the State under review submitted information regarding this recommendation;⁸⁵ of which the Committee notes, as a step that contributes to progress in its implementation, the following:

[283] “*Administrative Agreement No. TSC 003/2009, ‘Framework for the Internal Auditing of the Public Sector,’ sets guidelines for the selection of the internal auditor and his working team.*”

[284] In addition, the Committee notes that during the on-site visit, the TSC reported that although a selection process for the heads of internal auditing units has been established, as yet no mechanism has been set for the selection of their staff. They also noted the importance of appointing Internal Auditing Directors who are specialized in the functions required by the specific institutions, such as information technology, grey traffic, etc.

[285] The Committee takes note of the steps taken by the State under review to advance in its implementation of measure (a) of the recommendation in section 1.1, Chapter IV, of this report, and of the need for it to continue to give attention thereto. Pursuant to the comments made by the State under review regarding measure (a) suggested by the Committee with respect to recommendation 1.2.1 in section 1.2, Chapter IV, of this report, the measure is hereby reformulated as follows (see Annex I, recommendation 1.2.1, measure a):

- Consider the usefulness of establishing mechanisms for selecting the personnel of internal auditing units, such as public merit-based competitions, subject to preestablished rules and requirements; indicating, when applicable, the duration of the post and the grounds for separation, together with the consultation of the Superior Court of Accounts prior to any such separation, so that they do not feel constrained in discharging their duties objectively, as required by law.

85. Response of the Republic of Honduras to the questionnaire, pp. 39-41.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Adopt those measures that are considered necessary in order to achieve the effective observance of the Internal Control Standards and the Standards on Internal Audits issued by the Superior Court of Accounts.

[286] In its reply, the State under review submitted information and new developments regarding this measure,⁸⁶ of which the Committee notes, as steps that contribute to its satisfactory consideration, the following:

[287] *“In addition, the Directorate of Centralized and Decentralized Audits of the Superior Court of Accounts, through its Department of Internal Audit Supervision (DSAI), has as one of its main tasks the supervision of Centralized and Decentralized Internal Audit Units; it oversees the activities of those units to ensure their compliance with the terms of Administrative Agreement No. TSC 03/2009, the Internal Audit Framework, which has been amended to eliminate the prior control previously carried out by the internal auditors, ensuring that it is carried out by the public servants responsible for administrative processes.*

[288] *“It pursues this process in accordance with the powers granted to the National Public Resource Control System, which comprises two elements: internal control, which is the responsibility of the executive branch, and ex-post external oversight, which by constitutional mandate is the exclusive task of the Superior Court of Accounts, as provided by Article 5 of Agreement No. TSC 002/2007, which enacted its regulations.*

[289] *“This creates the National Office for the Integral Development of Internal Oversight, ONADICI, which, in conjunction with the Superior Court of Accounts and through internal audits, will oversee the latter’s internal control through the reports issued as the result of the ex-post review they conduct; through this they will become the right hand of the aforesaid Court. Consequently, this Department reviews the reports in order to ensure they meet the established regulations and use the forms suggested by this oversight agency.”*

[290] In addition, the Committee notes that during the on-site visit, the TSC and the ONADICI reported that the Internal Oversight Standards and the Internal Audit Rules issued by the TSC were being met.

[291] In consideration of the foregoing, the Committee takes note of the satisfactory consideration of measure (b) above, regarding compliance with the Internal Oversight Standards and the Internal Audit Rules issued by the TSC.

Measure c) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Implement measures aimed at optimizing the use of technology in the area of public contracting, and at ensuring broad publication and dissemination of calls for bids, and greater participation of bidders offering goods and services.

86. Response of the Republic of Honduras to the questionnaire, p. 42.

Medida c) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Implementar medidas orientadas a optimizar la utilización de la tecnología en materia de contratación pública, y a que se pueda contar con una amplia publicación y difusión de las convocatorias y con una mayor participación de oferentes de bienes y servicios.

[292] In its reply, the State under review provides information and new developments regarding this measure;⁸⁷ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[293] The creation of the State Contracting and Purchasing System “Honducopras.gob.hn” managed by the Regulatory Office for State Contracting and Purchasing (ONCAE); negotiations with the Public Information Access Institute (IAIP), to strengthen the disclosure of state contracting; the interinstitutional cooperation support agreement with the Superior Court of Accounts to promote transparency in public institutions, the aim of which is to publicize public purchasing; and the implementation of the Electronic Catalogue and Joint Purchasing Procurement System.

[294] The Committee also takes note of the difficulties identified by the State under review in that the ONCAE does not have the authority to sanction state institutions that fail to publish their contracting processes, as a result of which the information in the “Honducopras” computer system is limited and incomplete; and that although TSC has that power, it cannot act preventively because its oversight action is conducted ex-post and it therefore cannot ensure the law is observed in the process.

[295] In light of all the above, and bearing in mind that this topic was examined in depth during the Second Round of Review, which will be followed up on in due course, the Committee takes note of the steps taken by the State under review to advance in its implementation of measure (c) of the recommendation in section 1.2.1, Chapter IV, of this report, and of the need for it to continue to give attention thereto.

Measure d) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Increase training programs for public servants, in relation to the standards of conduct and mechanisms for conserving and ensuring the proper use of public resources.

[296] In its reply, the State undergoing review provides information and new developments regarding this measure,⁸⁸ of which the Committee notes the following as steps contributing to its satisfactory consideration:

[297] The training and awareness-raising programs on ethical values, standards of conduct, and mechanisms for the conservation and proper use of resources established by the National Banking and Insurance Commission (CNBS), the Superior Court of Accounts (TSC), and the Executive

87. Response of the Republic of Honduras to the questionnaire, pp. 44 to 49.

88. Response of the Republic of Honduras to the questionnaire, p. 49-54.

Directorate of Revenue (DEI), together with the creation of the Public Ethics Committees as described in the response of the Republic of Honduras to the questionnaire.⁸⁹

[298] In consideration of the foregoing, the Committee takes note of the satisfactory consideration of measure (d) above, dealing with training programs for public servants on standards of conduct and mechanisms for the conservation and proper use of public resources.

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

Recommendation:

Strengthen the mechanisms the Republic of Honduras has to require public officials to report to the competent authorities any acts of corruption in the performance of public functions of which they come to learn.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Adopt and implement measures of protection for public servants who report acts of corruption, are protected against threats or reprisals to which they may be subjected as a result of complying with this obligation.

[299] In its reply, the State under review provides the following information in connection with measure (a) of the foregoing recommendation.⁹⁰

[300] *“Article 72 of the Organic Law of the Superior Court of Accounts provides as follows: DUTY OF REPORTING IRREGULARITIES. Public servants who become aware of breaches or violations of legal provisions in public service shall immediately notify their superiors or the Court. Public servants and the persons indicated in this article shall enjoy the broadest state protection in accordance with the law.*

[301] *“The Regulations of the Organic Law of the Superior Court of Accounts provides: Article 110: Protection for Whistleblowers. Whistleblowers shall be entitled for their names and identities to be kept confidential and they shall also be given copies of their complaints if so requested.*

[302] *“The Code of Ethical Conduct of Public Servants, Article 28, invests the Ethics Committees with powers. Similarly, Article 5 of the Regulations for the Establishment and Operations of Committees of Probity and Public Ethics provides that the purpose of those committees shall be to promote a culture of probity and ethics within each agency or organ of the public sector and to hear cases of violations of the standards of conduct established in the corresponding institution or set by the Court.*

[303] *“Based on the above provisions, a methodology (form) has been designed to enable officials of the National Banking and Insurance Commission to lodge complaints; in addition, a mailbox has been set up at comiteprobidad@cnbs.gov.hn.*

89. Response of the Republic of Honduras to the questionnaire, p. 49-54.

90. *Ibid.*, pp. 54-55.

[304] The Committee also notes that during the on-site visit, the representatives of the Judicial Branch stated that the Witness Protection Law was not being enforced, and that the witness protection program in the Public Prosecution Service (MP) should be strengthened; they added that there were few employees and limited resources for implementing those protective measures, and that there was a lack of interinstitutional coordination in spite of the existence of a set of instructions.

[305] The Committee notes the need for the Republic of Honduras to pay additional attention to the implementation of the foregoing measure, considering that the information furnished by the State in its reply was either analyzed in previous rounds or does not directly address the protection of whistleblowers in corruption cases.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Increase the training programs for public servants, in relation to the responsibility to report to the competent authorities the acts of corruption of which they have knowledge.

Medida b) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Incrementar los programas de capacitación para los servidores públicos, en relación con la responsabilidad de denunciar ante las autoridades competentes los actos de corrupción de los que tengan conocimiento.

[306] In its reply, the State under review provides a large amount of information on this recommendation, regarding the training and programs of various state agencies, including the Judicial Branch, the Superior Court of Accounts, and the Executive Directorate of Revenue,⁹¹ which it considers to constitute steps toward the implementation of this recommendation.

[307] However, it is not clear from an analysis of the topics covered by these training courses and programs, that they are directly related to the responsibility of public servants to report the acts of corruption of which they become aware to the competent authorities. In addition, in its reply, the State under review indicates that one difficulty is the “lack of human resources and equipment for expanding the coverage of aware citizens to lodge complaints regarding irregularities in the handling of state assets and resources.”

[308] The Committee takes note of the steps taken by the Republic of Honduras to implement the foregoing measure and of the need for it to pay additional attention thereto.

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

Recommendation:

Strengthen the systems for the disclosure of income, assets, and liabilities.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

91. *Ibid.*, pp. 55-59.

Regulate the conditions, procedures and other aspects relating to the public disclosure, as appropriate, of statements of income, assets and liabilities, subject to the fundamental principles of the legal order of the Republic of Honduras.

[309] In its response, the State under review provides information and new developments relating to this measure,⁹² of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[310] (...) *However, a policy has been established whereby, at the end of the first half of each year, the names of those public servants who have not met their obligation of filing sworn statements are published. The list of those noncompliant public servants is published on our web page www.tsc.gob.hn (...)*

[311] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Maximize the use of the systems for analyzing the content of the statements, and adopt the appropriate measures, so that they can also be a useful tool for detecting and preventing conflicts of interest, in addition to using them as a suitable instrument for detecting possible cases of illicit enrichment.

Medida b) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Optimizar los sistemas de análisis del contenido de las declaraciones, y adoptar las medidas que correspondan, de tal manera que las mismas sirvan también como una herramienta útil para la detección y prevención de conflictos de intereses, además de su utilización como instrumento idóneo para la detección de posibles casos de enriquecimiento ilícito.

[312] In its response, the State under review submitted information and new developments relating to this measure,⁹³ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[313] *“The integrated system for statements is a secure data tool, and the information provided on the forms helps us investigate, prevent, detect, and combat illicit enrichment and conflicts of interest in that it can connect to the computer systems of other public sector entities required to conduct investigations, such as the Property Institute, the Commercial Register, the Executive Directorate of Revenue, and the National Banking and Insurance Commission; it can also connect to a database of obligated subjects that is connected to and fed by the human resource units of public sector agencies (...)”*

[314] *“In addition, it will allow annual analyses of changes in the net worth of obligated subjects and will be equipped with an alarm system, including the electronic production of statements of income, expenditure, assets, and liabilities; it will also enable both internal and external users to*

92. Response of the Republic of Honduras to the questionnaire, p. 62.

93. Response of the Republic of Honduras to the questionnaire, p. 62.

validate required information and data in the system by providing them with modules for consultations, reports, statistics, and other relevant tools. This will assist public servants in filing their statements over the internet.”

[315] The Committee notes that in its reply, the State under review highlights the following difficulties: *“One of the constraints we currently face is the limited use of information, which prevents broader analyses of changes in net worths; the contents of statements are analyzed manually within the TSC’s Department of Investigation and Verification.*

[316] *“Currently the Directorate of Technology is developing a system to record net worths that will serve as a tool for ordering and recording the information obtained during the verifications and investigations carried out by the corresponding department and will assist them in preparing the balance sheets needed in the process.*

[317] *“This will complement the progress and reports generated by the Integrated System for Sworn Statements of Income, Assets, and Liabilities.”*

[318] On this point, the Committee notes that during the on-site visit, the representatives of the ONADICI reported that the system was currently being tested and that it was to be launched in January 2013. They added that this will provide them with an alarm when discrepancies exist in sworn statements. In addition, they explained that to obtain statistics, two years of statements needed to be in the system, and so far one only one year’s is. In addition, they reported that work was underway on an agreement with the National Banking and Insurance Commission (CNBS) for exchanges of information.

[319] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

Measure c) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Develop the provision contained in Article 56 of the Organic Law of the Superior Court of Accounts, incorporating the use of information technology for submitting the statements, so as to make it easier for declarants to comply with this obligation electronically, and at the same time the Court could tap the advantages offered by such technology for optimizing performance of its functions in this area.

Medida c) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Desarrollar la previsión contenida en el artículo 56 de la Ley Orgánica del Tribunal Superior de

Cuentas, incorporando el uso de tecnología informática para la presentación de las declaraciones, de tal manera que se les facilite a los declarantes el cumplimiento de esta obligación por vía electrónica, y al mismo tiempo el Tribunal pueda aprovechar las ventajas que ofrece dicha tecnología para optimizar el cumplimiento de sus atribuciones en la materia.

[320] In its response, the State under review submitted information and new developments relating to this measure⁹⁴, of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[321] *“Work concluded on the development project of the Integrated System for Sworn Statements, which permits the collection, receipt, registration, validation, classification, evaluation, and monitoring of the information provided, to assist in the prevention, detection, and combat of illicit enrichment and conflicts of interest (for the moment, connected by network to the computer systems of the Executive Directorate of Revenue and Human Resource Administration System).*

[322] *It will enable annual analyses of changes in the net worths of obligated subjects and will be equipped with an alarm system, including the electronic production of statements of income, expenditure, assets, and liabilities; it will also enable both internal and external users to validate required information and data in the system by providing them with modules for consultations, reports, statistics, and other relevant tools.*

[323] *This is in pursuit of the measure of assisting public servants in filing their statements over the internet. This system offers three ways of connecting: over the internet (for connections from insecure public locations), over the intranet (for those with secure connections with the TSC), and remote or off-line access (for those without internet access).*

[324] The Committee notes that during the on-site visit, the representatives of the National Office for the Integral Development of Internal Oversight (ONADICI) reported that the program was at the pilot phase and that it was to be implemented in 2013.

[325] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

Measure d) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Strengthen the provisions regarding verification of the content of the statements by the Superior Court of Accounts, established in the Regulation of the Organic Law of that Court, such that one can have a system that makes it possible to give impetus to and timely perform such verification

[326] In its response, the State under review provides information and new developments relating to this measure⁹⁵, of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[327] *The integrated system for sworn statements seeks to allow swifter verifications of the information contained on the forms, by interfacing with other related systems to verify and validate the information contained in statements.*

[328] *Once implementation is concluded, we will have a safe, computer-based information tool that will assist in preventing, detecting, and combating illicit enrichment and conflicts of interest (this is because it will be able to connect with the computer systems of other public sector entities required to conduct investigations, such as the Property Institute, the Commercial Register, the Executive*

94. Response of the Republic of Honduras to the questionnaire, p. 64-66.

95. Response of the Republic of Honduras to the questionnaire, p. 66-70.

Directorate of Revenue, the National Banking and Insurance Commission, the General Directorate of Immigration and Nationality, and the Public Prosecution Service, as well as with a database of obligated subjects that is connected to and fed by the human resource units of public sector agencies, which will serve to generate compliance reports in a timely and correct fashion.

[329] *It will enable annual analyses of changes in the net worths of obligated subjects and will be equipped with an alarm system, including the electronic production of statements of income, expenditure, assets, and liabilities; it will also enable both internal and external users to validate required information and data in the system by providing them with modules for consultations, reports, statistics, and other relevant tools.*

[330] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

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

Recommendation which requires further attention under the terms provided in the report from the Second Round:

Strengthening the oversight bodies in terms of their functions in relation to the provisions of Article III, paragraphs 1, 2, 4, and 11 of the Convention in order to ensure the effectiveness of such control, endowing them with the resources needed for the thorough performance of their functions; ensuring that they have greater political and social support; and establishing mechanisms that allow for the institutional coordination of their actions, and their continuous evaluation and monitoring..

[331] In its reply, the State undergoing review submitted the following information regarding this recommendation:⁹⁶

[332] *The oversight agencies – particularly the office of the Attorney General of the Republic – should be given greater budgetary support by the government, since they need more logistical support to conduct more thorough investigations of public servants' assets. The office of the Attorney General of the Republic brings civil action arising from the supervisory interventions of the Superior Court of Accounts, together with action in cases of fiscal fraud and contraband. See web page: www.pgr.gob.hn (...)*

[333] *The difficulties that the office of the Attorney General of the Republic has had, in terms of shortcomings in internal control, is that it lacks logistical support with sufficient equipment for investigating possible corrupt practices by public officials, but it has succeeded in expediting recoveries for civil responsibilities decided on by the Superior Court of Accounts. (...)*

[334] The Committee takes note of the difficulties highlighted by the State under review, and it has formulated recommendations related to strengthening the oversight bodies, including the office of the Attorney General of the Republic (PGR), in the section dealing with the analysis of the Convention article selected for the Fourth Round.

[335] In light of the above comments, the Committee takes note of the need for the State under review to pay attention to the implementation of this recommendation.

96. *Ibid.*, pp. 70-73.

4. MECHANISMS TO PROMOTE THE 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:

Implement laws which support access to public information.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Develop and regulate processes for receiving requests, for answering them in timely fashion, for appeal in case such requests are denied, and that establish sanctions in those cases in which there is a failure to provide information.

[336] In its response, the State under review submitted information and new developments relating to this measure⁹⁷, of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[337] *The creation of the Law on Transparency and Access to Public Information (LTAIP) by means of Legislative Decree No. 170-2006, published in the official journal La Gaceta on December 30, 2006, in force since January 19, 2007, and containing 39 articles; which creates the Public Information Access Institute as a deconcentrated agency of the public administration, with independence for its operations, decisions, and budget, responsible for promoting and facilitating citizens' access to public information and for regulating and overseeing the obligated institutions' procedures for the protection, classification, and safekeeping of public information, in accordance with the LTAIP.*

[338] *The enactment of its Regulations by means of Agreement No. IAIP-0001-2008, published in the official journal La Gaceta on March 6, 2008, for immediate execution, and containing 80 articles; these two legal instruments set down the procedure to be followed by citizens in exercising their right of access to public information, from the filing of a request, the grounds on which it is based, and the deadlines or time frames in which the obligated agencies must resolve it and respond appropriately, abiding by the deadlines provided for in the Law (10 days for a resolution and, in duly justified cases, that deadline may be extended on one single occasion and for one additional ten-day period), and stating that if the requested information is denied, the grounds for that decision must be communicated to the applicant in writing, pursuant to the terms of Articles 20 and 21 of the LTAIP and broadly developed in those articles, and in Articles 34, 36, 37, 38, and 39 of its Regulations.*

[339] *Appeals for cases in which such applications are denied: The LTAIP does not provide for "appeals" but for "review remedies."* In addition, the LTAIP also sets out sanctions for those who violate its terms.

[340] In addition, the Committee notes that in its reply, the State under review states that its difficulties include the fact that, currently, the Public Information Access Institute, the agency responsible for guaranteeing the right of access to public information, does not have the financial

⁹⁷ Response of the Republic of Honduras to the questionnaire, p. 74-77.

resources to create regional offices to assist the public not only in lodging information access requests, but also in filing the corresponding review remedies in the event that their requests are denied or dismissed by the obligated agency.

[341] This was corroborated by the representatives of the ITAIP during the on-site visit, as well as by the representatives of the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC).”

[342] The Committee, in consideration of the foregoing, takes note of the steps taken by the State under review regarding the implementation of measure (a) of the foregoing recommendation and it notes the difficulties highlighted by the State under review. In light of the comments made above by the State under review, measure (a) of the foregoing recommendation is hereby reformulated as follows (see Annex I, recommendation 4.1.1, measure a):

[343] - *Strengthen the Public Information Access Institute as the agency for ensuring the right of access to public information, by providing it with financial resources for creating regional offices to assist the public not only in lodging information access requests, but also in filing the corresponding review remedies in the event that their requests are denied or dismissed by the obligated agency.*

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Implement training and dissemination programs on the mechanisms for access to information, so as to facilitate their understanding by public servants and citizens, and to optimize the use of the technology available to that end.

[344] In its response, the State under review provides information and new developments relating to this measure,⁹⁸ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[345] *To better perform its functions, the IAIP has designed a policy for the mass dissemination of the Law on Transparency and Access to Public Information and its Regulations; this involves, inter alia, training certified trainers who will assist in raising awareness about those provisions.*

[346] *Through the IAIP’s Training Management, forty-one thousand, six hundred and one (41,601) people across the country have received training, including public servants from all the obligated institutions, primary and secondary school pupils, university students, and representatives of nongovernmental organizations, employers’ associations, trade unions, and civil society organizations.*

[347] In addition, in its reply the State under review indicates that the difficulties it faces include the following: *The budget assigned to the Public Information Access Institute is inadequate for providing the majority of citizens with training. Due to the absence of regional offices, the trainers have to travel from the IAIP’s headquarters in the capital to those municipalities that have requested training on transparency and accountability topics. Since it is an impossibility, for logistical and financial reasons, to cover the entire nation, as an alternative an online learning platform is being launched, to allow the public remote access, over the internet, to the training offered by the IAIP.*

98. Response of the Republic of Honduras to the questionnaire, p. 77-81.

[348] In this regard, the Committee notes that during the on-site visit, the IAIP's representatives stated that they lacked financial and human resources and that the training provided was through agreements with nongovernmental organizations (NGOs). They do not have, however, money for vehicles or traveling expenses. That means that even when the NGOs can cover part of the cost, the training is often not given because no means of transportation are available.

[349] The Committee, in consideration of the foregoing, takes note of the steps taken by the State under review regarding implementation of measure (a) of the foregoing recommendation and it notes the difficulties highlighted by the State under review. In light of the comments made above by the State under review, measure (a) of the foregoing recommendation is hereby reformulated as follows (see Annex I, recommendation 4.1.1, measure b):

- Implement training and dissemination programs dealing with the mechanisms for information access, in order to help public servants and citizens understand them and to optimize the use of available technology to that end; and strengthen the Public Information Access Institute (IAIP), providing it with the human and budgetary resources needed for it to be able to implement these programs.

Measure c) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Develop legal provisions that make the information and documentation related to the management of public sector organs and entities available to the public, not including those exceptions established by the legal system, establishing the right of access to the records of those organs and entities, and to obtain copies of the administrative documents and files, pursuant to the limitations established in the national legislation.

[350] In its response, the State under review provides information and new developments relating to this measure,⁹⁹ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[351] *The creation of the Law on Transparency and Access to Public Information (LTAIP) by means of Legislative Decree No. 170-2006, published in the official journal La Gaceta on December 30, 2006, and in force since January 19, 2007, containing 39 articles; and its Regulations, through Agreement No. IAIP-0001-2008, published in the official journal La Gaceta on March 6, 2008, for immediate execution, containing 80 articles; these two legal instruments enshrine the public nature of information and documents related to the undertakings of public sector agencies and entities, the right to access their archives, and to obtain copies of documents and files.*

[352] *In addition, Article 14 of the LTAIP states that: "Public information shall be given to applicants or users in the state or format in which it is available. If the information requested does not exist, the applicant shall be informed in writing of that fact." The second paragraph of that same article adds: "Applicants and users may not require the obligated institutions to conduct evaluations or analyses of the information they hold."*

[353] *The third and last paragraph of the article provides: "The applicants and users shall be directly responsible for the use, handling and dissemination of the public information to which they have access."¹⁰⁰*

99. Response of the Republic of Honduras to the questionnaire, p. 77-81.

[354] The Committee also notes that in the response to the questionnaire, the State under review states that the difficulties it faces include: *“Although the IAIP, by providing training on the Law on Transparency and Access to Public Information and its Regulations, has worked to promote a culture of transparency and openness with respect to information and has instructed public servants regarding their duty of abiding by that law – which is a law of the public order and of social interest, for the development and execution of the national transparency policy, and for upholding the right of all persons to access to public information in order to strengthen the rule of law and consolidate democracy through citizen participation – some, albeit not all, of the obligated institutions, after receiving training, insist on failing to abide by its provisions, thereby hindering the right of all citizens to access public information and failing to observe the principle of maximum disclosure of public documents.”*

[355] Also during the on-site visit, the IAIP’s representatives stated they were short on human and financial resources, with 45 people to cover the entire country, and that they have difficulties with municipalities that fail to furnish the requested information in spite of having guidelines for the implementation of the Law on Transparency and Access to Public Information (LTAIP). In addition, it was noted that the IAIP’s management reports were not published on its web site.

[356] Regarding this matter, the Committee believes that although the LTAIP has been enacted, which satisfies measure (c) of the foregoing recommendation, in order for it to be implemented in full, the measure would have to be reformulated in order to address those issues.

[357] In light of the foregoing, the Committee takes note of the steps taken by the State under review regarding implementation of measure (c) of the foregoing recommendation; takes note of the difficulties highlighted by the State under review; and pursuant to the comments made above by the State under review, hereby reformulates measure (c) of the foregoing recommendation as follows (see Annex I, recommendation 4.1.1, measures c and d):

[358] *Strengthen the Public Information Access Institute (IAIP), providing it with the human and financial resources required for the full performance of its duties as the body responsible for guaranteeing the right of access to public information, and also ensuring transparency, equity, and efficiency in the selection of its staff, including its senior authorities.*

[359] *Strengthen transparency in the accountability of the IAIP, ensuring that its management reports are published through its web site and enabling other mechanisms to allow the public to learn about its functions and how to pursue formalities with it.*

[360] In addition, during the interviews with civil society organizations, “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” “Civil Society Group (GSC),” and “C-Libre” all spoke of shortcomings in the way the IAIP’s senior authorities were selected.

100. See the IAIP’s web site at www.iaip.gob.hn.

4.2. Mechanisms for consultation

Recommendation:

Complement existing mechanisms of consultation, establishing procedures, as appropriate, that make it possible to engage in public consultations prior to designing public policies and final approval of legal provisions.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Continue establishing procedures, when appropriate, for allowing the consultation of interested sectors of civil society and nongovernmental organizations in relation to the design of public policies and the preparation of proposed laws, decrees, or resolutions within the scope of the Executive branch.

[361] In its response, the State under review provides information and new developments relating to this recommendation,¹⁰¹ of which the Committee notes, as a step that contributes to progress in its implementation, the following:

[362] *The Replicators' Training Days for discussion and construction of the National Accountability Agenda are a mechanism for consulting with citizens and organizations. This mechanism is being developed through a pilot project in Honduras, as part of a regional project of the Central American and Caribbean Organization of Supreme Audit Institutions (OCCEFS) made possible through a donation from the World Bank.*

[363] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Hold public hearings or develop other suitable mechanisms that permit public consultations in other areas in addition to those already considered, when appropriate.

[364] In its response, the State under review provides information and new developments relating to this recommendation,¹⁰² of which the Committee notes, as a step that contributes to progress in its implementation, the following:

[365] *A pilot project called "Citizenship involvement in to the auditing processes of the Superior Court of Accounts" was carried out, which called on citizens and civil society organizations that benefited from the work of the institution to be audited to attend public meetings to receive complaints or address critical matters related to the management and/or quality of the services rendered by the institution in question. Also in the results presentation phase, the Superior Court of Accounts presents the results of the audit carried out at an open, public event.*

101. Response of the Republic of Honduras to the questionnaire, p. 85-86.

102. Response of the Republic of Honduras to the questionnaire, p. 85-86.

[366] The Committee takes note of the step taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

[367] Regarding this, it should also be noted that during the on-site visit, the civil society organizations “Association for a More Just Society (ASJ),” “Federation of Private Organizations for the Development of Honduras (FOPRIDEH),” and “Civil Society Group (GSC)” stated that these public hearings were not strictly enforced, and that no provision specified how many had to be held or when.

Measure c) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Adopt, in accordance with its legal order and through the competent authority, the measures required so that the plebiscite and referendum mechanisms, introduced in the amendment to Article 5 of the Constitution, may be made available to citizens for their use, in the event that the amendment is ratified. At the same time, the Committee considers that in order to strengthen the legal institutional system of the country under review, it is advisable that during the amendment, consideration be given to the possibility of regulating the treatment given to these participation mechanisms, the areas or subjects in which they are to be obligatory.

[368] In its reply, the State under review presented information and new developments in connection with the foregoing measure,¹⁰³ of which the Committee notes, as a step that contributes to its satisfactory consideration, the following:

[369] *It should be noted that in 2009, the National Congress approved the Regulations for popular consultations by means of plebiscites and referendums.*

[370] The Committee, without entering into a comprehensive analysis of these regulations, takes note of the satisfactory consideration of measure (c) of the foregoing recommendation.

4.3. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage the civil society and nongovernmental organizations to participate in the public administration, and move to repeal provisions that may discourage that participation.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Establish mechanisms in addition to those that exist, to strengthen the participation of civil society and nongovernmental organizations in the efforts to prevent corruption.

[371] In its response, the State under review submitted information and new developments relating to this measure,¹⁰⁴ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

103 Response of the Republic of Honduras to the questionnaire, p. 88.

104. Response of the Republic of Honduras to the questionnaire, p. 85-86.

[372] *Through the project “Citizenship involvement in the auditing processes of the Superior Court of Accounts” and, now, through the construction of the National Accountability Agenda.*

[373] *The judiciary, to encourage participation by civil society organizations, has signed agreements and/or declarations with the following bodies: Chambers of Commerce and Industry in Tegucigalpa and the country’s other departments; the judiciaries of Korea, the Dominican Republic, and Costa Rica; Honduran Council for Private Enterprise, ONCAE, Technological University of Honduras (UTH), Federation of Private Development Organizations of Honduras (FOPRIDEH), Commission for the Defense and Promotion of Competition, Secretary of State for the Offices of Indigenous and Afro-Honduran Peoples (SEDINAFRO) (...)*

[374] In addition, the Committee notes that during the on-site visit, the PGR reported that it did not have the resources for implementing mechanisms for civil society participation.

[375] The Committee takes note of the steps taken by the State under review to progress with the implementation of the foregoing measure and of the need for it to continue to give attention thereto.

[376] In addition, during the on-site visit, the representative of the Honduran Council for Private Enterprise (COHEP) reported that the private sector was working for the adoption of a Citizen Oversight Law, which would create supervisory mechanisms for the public administration with the direct involvement of civil society. However, they said that they had no way to present such a proposal and that it was not yet on the Congressional agenda.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Move to repeal the “desacato laws”.

Medida b) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Avanzar en la derogación de las denominadas “leyes de desacato”.

[377] In its response, the State under review the state under review presents information and new developments with respect to the above measure. In this regard, the Committee notes the following as a step that contributes to progress in its implementation.¹⁰⁵

[378] *On May 19, 2005, the Constitutional Chamber of the Supreme Court of Justice found that Article 345 of the Criminal Code (contempt) was unconstitutional and, therefore, it abolished it. This judgment was published in the Official Gazette “La Gaceta” on October 22, 2005 .*

[379] The Committee takes note of the satisfactory consideration of measure c) above-

105. Response of the Republic of Honduras to the questionnaire, p. 94.

Measure c) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Support, through the Superior Court of Accounts and when appropriate, the establishment of opportunities and mechanisms for citizen participation, in conformity with Article 70 of the Organic Law of the Superior Court of Accounts.

[380] In its reply, the State under review provides information and new developments in connection with the foregoing measure,¹⁰⁶ of which the Committee notes, as a step that contributes to its satisfactory consideration, the following:

[381] *Through the project “Citizenship involvement in the auditing processes of the Superior Court of Accounts,” mechanisms and forums for citizen participation have been created and, at present, work is underway on establishing the National Accountability Agenda, in which it is hoped that all players in Honduran society will come together for increased participation in matters of public affairs. This may be found on our web page www.tsc.gob.hn in the “citizen participation” link in the Democratization of Institutional Control document “Balance of involvement of the citizenship and civil society organizations in the auditing processes of the Superior Court of Accounts of the Republic of Honduras” and “Guide book for involvement of the citizenship and civil society organizations in the auditing processes of the Superior Court of Accounts.” (The National Accountability Agenda is being executed.)*

[382] *The strategy for public involvement in specific oversight efforts through interactions between citizens and the Superior Court of Accounts has been put in place through two mechanisms: first, by receiving, evaluating, and processing citizens’ complaints, and, second, through the participation of citizens and civil society organizations in auditing processes.*

[383] The Committee takes note of the satisfactory consideration of measure (c) of the foregoing recommendation.

Measure d) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Design and implement, when appropriate, programs to disseminate the mechanisms of participation in the follow-up of public administration, and train and provide the tools needed to civil society and nongovernmental organizations to make adequate use of those mechanisms.

[384] In its response, the State under review provides information and new developments relating to this measure,¹⁰⁷ of which the Committee notes, as steps that contribute to its satisfactory consideration, the following:

[385] *The National Public Accountability Agenda aims to publicize mechanisms for encouraging citizen participation and the expression of opinions on the public budget and other topics of national interest.*

[386] *The Superior Court of Accounts has trained 15,402 citizens between 2004 and 2011, enjoying the full participation and assistance of different agencies of civil society in that process.*

106. Response of the Republic of Honduras to the questionnaire, p. 91.

107. Response of the Republic of Honduras to the questionnaire, p. 85-86.

[387] *The Subdirectorate of Citizen Participation has provided basic training modules on such topics as the following: organization of the Honduran state; citizen participation and social oversight; Law on Access to Public Information and Citizen Participation in the Superior Court of Accounts and, in particular, citizen complaints and municipal management workshops. Between 2004 and 2011, a total of 5,875 public servants and 9,527 civil society representatives have received training on topics related to citizen participation and social oversight, the system for dealing with complaints from members of the public, and public and civil society involvement in the auditing processes of the Superior Court of Accounts.*

[388] The Committee takes note of the satisfactory consideration of measure (d) of the foregoing recommendation.

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

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in monitoring the public administration.

Measure a) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Promote ways whereby those who perform public functions may, as appropriate, allow, facilitate, or help civil society and nongovernmental organizations develop activities to monitor their public activities.

[389] In its response, the State under review provides information and new developments relating to this measure,¹⁰⁸ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[390] *Supreme Court of Justice: Maintain ties with the Institute for Transparency and Access to Public Information, continue toward the signing of the training agreement with the National Council against Corruption, strengthen the Justice in Action program, and other steps.*

[391] *Through the project "Citizenship involvement in the auditing processes of the Superior Court of Accounts," in the presentation of the results prepared by that court, presenting them at an open, public event where the public are asked to assist with following up on the recommendations formulated in the reports.*

[392] The Committee takes note of the steps taken by the State under review to progress with implementation of the above measure, as well as the need for it to continue to pay attention thereto.

Measure b) suggested by the Committee, which requires further attention under the terms provided in the report from the Second Round:

Design and implement programs to disseminate the mechanisms of participation in the follow-up of public administration, and train and provide the tools needed to civil society and nongovernmental organizations to make adequate use of those mechanisms.

108. Response of the Republic of Honduras to the questionnaire, p. 95.

Medida b) sugerida por el Comité, que requiere atención adicional en los términos previstos en los informes de la Segunda Ronda:

Diseñar y poner en funcionamiento programas para difundir los mecanismos de participación en el seguimiento de la gestión pública y capacitar y facilitar las herramientas necesarias a la sociedad civil y a las organizaciones no gubernamentales para la utilización adecuada de tales mecanismos.

[393] In its response, the State under review provides information and new developments relating to this measure,¹⁰⁹ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[394] *Preparation of a citizen guide to integrity and anticorruption and a series of publications related to the topics of integrity, information access, budget, and corruption.*

[395] *In the year 2011, our Government approved a Transparency and Anticorruption Plan. Its aim is to increase the transparency of the public administration; Plan for the period 2011-2014, see www.sdp.gob.hn.*

[396] The Committee notes the steps taken by the State under review to progress with the implementation of the above measure, as well as the need for it to continue to pay attention thereto.

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

Recommendation 5.1., which requires further attention under the terms provided in the report from the Second Round:

Determine and prioritize specific areas where the Republic of Honduras considers that technical cooperation from other States Parties is required to strengthen their ability to prevent, detect, investigate and punish acts of corruption. The Republic of Honduras must also determine and prioritize requests received for mutual assistance on investigating or trying cases of corruption.

[397] In its response, the State under review provides information and new developments relating to this measure,¹¹⁰ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[398] *Technical support is needed for drafting the regulations of the office of the Inspector General of Courts from countries at the cutting edge in anticorruption efforts, as is advice on procedures for receiving and resolving complaints so they can be collected, organized, and resolved.*

[399] *Technical cooperation on the following topics could be requested: investigation of conflicts of interest, illicit enrichment, new investigation and auditing techniques and tools, new processes for transparency in handling government information on state procurement and contracting, specialization of judges in anticorruption topics (procedures and provisions) and evaluation and training of justice operators (prosecutors, judges, police).*

[400] The Committee notes the steps taken by the State under review to progress with implementation of the above measure, as well as the need for it to continue to pay attention thereto.

109 Response of the Republic of Honduras to the questionnaire, p. 97.

110 Response of the Republic of Honduras to the questionnaire, p. 99.

Recommendation 5.2., which requires further attention under the terms provided in the report from the Second Round:

Continue with the efforts to exchange technical cooperation with other States Parties on the most effective ways and means of preventing, detecting, investigating and sanctioning acts of corruption.

[401] In its response, the State under review submitted information and new developments relating to this measure,¹¹¹ of which the Committee notes, as steps that contribute to progress in its implementation, the following:

[402] *On November 15, 2006, in Guatemala City, during the 12th International Anticorruption Conference, the Heads of State and Government of the nations of the Central American Integration System (SICA) signed the DECLARATION OF GUATEMALA: FOR A CORRUPTION-FREE REGION.*

[403] *The oversight agencies of Central America, Panama, and the Dominican Republic created the Supreme Oversight Body of the Central American Integration System (OSFSICA) as an oversight mechanism for all the institutions belonging to the regional integration system. Technical support is being provided by the European Union.*

[404] *Interinstitutional Cooperation agreement with the oversight agency of the State Congress of the Mexican state of Guanajuato.*

[405] The Committee notes the steps taken by the State under review to progress with implementation of the above measure, as well as the need for it to continue to pay attention thereto.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation 6.1., which requires further attention under the terms provided in the report from the Second Round:

Consider providing the Court of Accounts with the funding it needs to carry out its functions in the appropriate manner, as a central authority of the Convention, and in particular to design and implement an integral dissemination and training program for the appropriate authorities and officials, in order for them to be aware of, and in a position to apply, the provisions for mutual assistance for investigating and trying the acts of corruption provided for in the Convention and in other agreements entered into by the Republic of Honduras.

[406] The State under review furnished the following information:

[407] *Create permanent interinstitutional cooperation mechanisms.*

[408] *Develop a multiyear National Anticorruption Plan for the prevention, detection, investigation, and punishment of acts of corruption, and implement comprehensive outreach and training programs for the competent authorities and officials.*

[409] *Maintain greater levels of communication at both the operational and executive levels of the agencies involved in the fight against corruption.*

¹¹¹ Response of the Republic of Honduras to the questionnaire, p. 99.

[410] The Committee takes note of the need for the Republic of Honduras to pay additional attention to the implementation of the foregoing recommendation.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1

This recommendation was considered satisfactory and therefore it is not necessary to report on it.

Recommendation 7.2., which requires further attention under the terms provided in the report from the Second Round:

Select and develop procedures and indicators, when appropriate, to ascertain that the recommendations made in this report have been followed up and to report to the Committee, through the Technical Secretariat on the progress made. The list of indicators generally applied in the Inter-American system and available for the selection indicated by the State under review, which has been published by the Secretariat of the Committee on the OAS' website, could be used for that purpose, as well as information obtained from analyzing the mechanisms developed following recommendation 7.3 below.

[411] In its reply, the State under review provides the following information:¹¹²

[412] With the support of the World Bank, work was underway on the development of governance indicators, including the progress made with implementing the Plan of Action adopted in February 2008. Those indicators were planned for conclusion by December 2008; however, in light of the political situation in the years 2008 and 2009 (suspension from the OAS, suspension of World Bank loans, etc.) to date we have no information on those indicators.

[413] The Committee takes note of the difficulty highlighted by the Republic of Honduras and the need for it to pay additional attention to the implementation of the foregoing recommendation.

Recommendation 7.3., which requires further attention under the terms provided in the report from the Second Round:

Develop procedures, when appropriate and if they do not yet exist, to analyze the mechanisms mentioned in this report, as well as the recommendations contained in it.

[414] In its reply, the State under review furnished the following information:¹¹³

[415] The Superior Court of Accounts, as the central authority for the purposes of the Inter-American Convention against Corruption and the coordinator of the response to the Questionnaire, is implementing procedures to analyze the mechanisms referred to in the report.

[416] The Committee takes note of the need for the State under review to pay additional attention to the implementation of the foregoing recommendation, considering that no indication was given of what those procedures entail.

112. Response of the Republic of Honduras to the questionnaire, p. 102.

113. Response of the Republic of Honduras to the questionnaire, p. 102.

ANNEX I

**OUTSTANDING RECOMMENDATIONS REGARDING THE TOPICS REVIEWED
DURING 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:

Strengthen the implementation of laws and regulatory systems related to conflicts of interest.

Measures suggested:

- a. Implement mechanisms to ensure compliance with the terms of the Code of Ethical Conduct of Public Servants, and provide the Superior Court of Accounts (TSC) with the human and budgetary resources necessary to perform that function.
- b. Establish adequate restrictions for those public servants who have recently left public positions, or who have concluded a consultancy contract with a public agency, such as disqualification from involvement in cases in which they intervened by reason of their public function, or with those agencies with which they were recently involved, and establish mechanisms for punishing violators.

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

Recommendation:

Strengthen the implementation of laws and regulatory systems with respect to the conservation and proper use of public resources.

Measures suggested

- a. Consider the usefulness of establishing mechanisms for selecting the personnel of internal auditing units, such as public merit-based competitions, subject to preestablished rules and requirements; indicating, when applicable, the duration of the post and the grounds for separation, together with the consultation of the Superior Court of Accounts prior to any such separation, so that they do not feel constrained in discharging their duties objectively, as required by law.
- b. Implement measures aimed at optimizing the use of technology in the area of public contracting, and at ensuring broad publication and dissemination of calls for bids, and greater participation of bidders offering goods and services.

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

Recommendation:

Strengthen the mechanisms the Republic of Honduras has to require public officials to report to the competent authorities any acts of corruption in the performance of public functions of which they come to learn.

Measures suggested

- a. Adopt and implement measures of protection for public servants who report acts of corruption, are protected against threats or reprisals to which they may be subjected as a result of complying with this obligation.
- b. Increase the training programs for public servants, in relation to the responsibility to report to the competent authorities the acts of corruption of which they have knowledge.

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

Recommendation:

Strengthen the systems for the disclosure of income, assets, and liabilities.

Measures suggested

- a. Regulate the conditions, procedures and other aspects relating to the public disclosure, as appropriate, of statements of income, assets and liabilities, subject to the fundamental principles of the legal order of the Republic of Honduras.
- b. Maximize the use of the systems for analyzing the content of the statements, and adopt the appropriate measures, so that they can also be a useful tool for detecting and preventing conflicts of interest, in addition to using them as a suitable instrument for detecting possible cases of illicit enrichment.
- c. Develop the provision contained in Article 56 of the Organic Law of the Superior Court of Accounts, incorporating the use of information technology for submitting the statements, so as to make it easier for declarants to comply with this obligation electronically, and at the same time the Court could tap the advantages offered by such technology for optimizing performance of its functions in this area..
- d. Strengthen the provisions regarding verification of the content of the statements by the Superior Court of Accounts, established in the Regulation of the Organic Law of that Court, such that one can have a system that makes it possible to give impetus to and timely perform such verification.

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

Recommendation:

Strengthening the oversight bodies in terms of their functions in relation to the provisions of Article III, paragraphs 1, 2, 4, and 11 of the Convention in order to ensure the effectiveness of such control, endowing them with the resources needed for the thorough performance of their functions; ensuring that they have greater political and social support; and establishing mechanisms that allow for the institutional coordination of their actions, and their continuous evaluation and monitoring.

4. MECHANISMS TO PROMOTE THE 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:

Implement laws which support access to public information.

Measures suggested

- a. Strengthen the Public Information Access Institute as the agency for ensuring the right of access to public information, by providing it with financial resources for creating regional offices to assist the public not only in lodging information access requests, but also in filing the corresponding review remedies in the event that their requests are denied or dismissed by the obligated agency.
- b. Implement training and dissemination programs dealing with the mechanisms for information access, in order to help public servants and citizens understand them and to optimize the use of available technology to that end; and strengthen the Public Information Access Institute (IAIP), providing it with the human and budgetary resources needed for it to be able to implement these programs.
- c. Strengthen the Public Information Access Institute (IAIP), providing it with the human and financial resources required for the full performance of its duties as the body responsible for guaranteeing the right of access to public information, and also ensuring transparency, equity, and efficiency in the selection of its staff, including its senior authorities.
- d. Strengthen transparency in the accountability of the IAIP, ensuring that its management reports are published through its web site and enabling other mechanisms to allow the public to learn about its functions and how to pursue formalities with it.

4.2. Mechanisms for consultation

Recommendation:

Complement existing mechanisms of consultation, establishing procedures, as appropriate, that make it possible to engage in public consultations prior to designing public policies and final approval of legal provisions.

Measures suggested

- a. Continue establishing procedures, when appropriate, for allowing the consultation of interested sectors of civil society and nongovernmental organizations in relation to the design of public policies and the preparation of proposed laws, decrees, or resolutions within the scope of the Executive branch.
- b. Hold public hearings or develop other suitable mechanisms that permit public consultations in other areas in addition to those already considered, when appropriate.

4.3. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage the civil society and nongovernmental organizations to participate in the public administration, and move to repeal provisions that may discourage that participation.

Measure suggested

- Establish mechanisms in addition to those that exist, to strengthen the participation of civil society and nongovernmental organizations in the efforts to prevent corruption.

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

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in monitoring the public administration.

Measures suggested

- a. Promote ways whereby those who perform public functions may, as appropriate, allow, facilitate, or help civil society and nongovernmental organizations develop activities to monitor their public activities.
- b. Design and implement programs to disseminate the mechanisms of participation in the follow-up of public administration, and train and provide the tools needed to civil society and nongovernmental organizations to make adequate use of those mechanisms.

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

Recommendation 5.1.

Determine and prioritize specific areas where the Republic of Honduras considers that technical cooperation from other States Parties is required to strengthen their ability to prevent, detect, investigate and punish acts of corruption. The Republic of Honduras must also determine and prioritize requests received for mutual assistance on investigating or trying cases of corruption.

Recommendation 5.2.

Continue with the efforts to exchange technical cooperation with other States Parties on the most effective ways and means of preventing, detecting, investigating and sanctioning acts of corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation:

Consider providing the Court of Accounts with the funding it needs to carry out its functions in the appropriate manner, as a central authority of the Convention, and in particular to design and implement an integral dissemination and training program for the appropriate authorities and officials, in order for them to be aware of, and in a position to apply, the provisions for mutual assistance for investigating and trying the acts of corruption provided for in the Convention and in other agreements entered into by the Republic of Honduras.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1

This recommendation was considered satisfactory and therefore it is not necessary to report on it.

Recommendation 7.2.

Select and develop procedures and indicators, when appropriate, to ascertain that the recommendations made in this report have been followed up and to report to the Committee, through the Technical Secretariat on the progress made. The list of indicators generally applied in the Inter-American system and available for the selection indicated by the State under review, which has been published by the Secretariat of the Committee on the OAS' website, could be used for that purpose, as well as information obtained from analyzing the mechanisms developed following recommendation 7.3 below.

Recommendation 7.3.

Develop procedures, when appropriate and if they do not yet exist, to analyze the mechanisms mentioned in this report, as well as the recommendations contained in it.

ANNEX II

AGENDA OF THE ON-SITE VISIT TO HONDURAS

Monday, October 1, 2012	
16:00 hrs – 17:30 hrs <i>Hotel</i>	Coordination meeting between the representatives of the Member States of the Subgroup and the Technical Secretariat.
17:30 hrs – 18:30 hrs <i>Hotel</i>	Coordination meeting between the representatives of the country under review, the Member States of the Subgroup, and the Technical Secretariat
Tuesday, October 2, 2012	
08:30 hrs – 9:30 hrs <i>Hotel</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers
	Topic: Oversight bodies in Honduras and follow-up on the implementation of the recommendations formulated during the First Round.
	<i>Association for a More Just Society (ASJ)</i> Carlos Hernández, Executive Director Ludin Ayala, Coordinator for Transparency Evelyn Hernández, Consultant <i>Federation of Private Organizations for the Development of Honduras (FOPRIDEH)</i> Attorney Denisse Miranda, Responsible for the Anticorruption Area <i>Civil Society Group (GSC)</i> Omar Edgardo Rivera, Coordinator of the Technical unit Carlos Salinas, Director for Policy Impact
9:30 hrs – 10:30 hrs	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers (cont.)
	Topic: The Law on Transparency and Access to Public Information and social oversight

	<p><i>National Anticorruption Council (CNA)</i> Dulce María Zavala, Coordinator Eugenio González, Executive Director Roberto Herrera Cáceres, Consultant Yolanda Barahona de Suazo, Member of the Board Ana Abarca, Member of the Board Juan Ferrera, Member of the Board Ricardo Calderón, Member of the Board</p> <p><i>C LIBRE</i> Arnaldo Rodríguez, President Héctor Longino Becerra, Executive Director Miriam Elvir, Alert System Amada Ponce, Alert System</p>
11:00 hrs – 12:30 hrs	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional organizations, academics or researchers (cont.)
	<p>Topic: The investigation and criminal prosecution of acts of corruption in Honduras</p>
	<p><i>Bar Association of Honduras</i> Roy Urtecho, President</p> <p><i>Autonomous University of Honduras</i> Julieta Castellanos, Rector</p> <p><i>Association of Judges and Magistrates</i> Teodoro Bonilla, President</p> <p><i>Association of Prosecutors</i> Fabricio Erazo, President</p> <p><i>Honduran Council for Private Enterprise (COHEP)</i> Aline Flores, President Ricardo Montes, Legal Advice Manager</p>
12:30 hrs – 14:00 hrs	Lunch
14:00 hrs – 15:00 hrs	Panel 1: Superior Court of Accounts

	<p>Topics:</p> <ul style="list-style-type: none"> • Initial presentation: functions, objectives, and structure • Results in relation to the fulfillment of responsibilities
	<p>Superior Court of Accounts César Santos, Director for Citizen Participation Jonabelly Alvarado, Director for Centralized and Decentralized Audits</p>
15:00 hrs – 16:00 hrs	Panel 2: Superior Court of Accounts
	<p>Topics:</p> <ul style="list-style-type: none"> • Difficulties encountered and technical cooperation needs • Regime of competencies and interinstitutional coordination mechanisms
	<p>Superior Court of Accounts Norma Castellón, Executive Director Jorge Medina, Assistant General Secretary Rigoberto Córdova Laitano, Magistrate’s Assistant</p>
16:00 – 17:00 hrs	Panel 3: Superior Court of Accounts
	<p>Topic:</p> <ul style="list-style-type: none"> • Institutional strengthening actions • Internal control mechanisms • Human resource regime
	<p>Superior Court of Accounts Ritza Solórzano, Assistant Director for Personnel Administration María Fernanda Aguilar, Assistant Director for Citizen Participation Rigoberto Córdova Laitano, Magistrate’s Assistant</p>
17:00 hrs – 18:30 hrs	Panel 4: Follow-up on first-round recommendations
	<p>Topic:</p> <ul style="list-style-type: none"> • Follow-up on first-round recommendations <ul style="list-style-type: none"> - Standards of conduct and mechanisms for enforcing them - Systems for registering income, assets, and liabilities

	<p>Superior Court of Accounts</p> <p>Wendy Zelaya, Director for Probity and Ethics</p> <p>Delia Karina Mejía, Head of the Probity Department</p> <p>Ever Bueso, Public Information Officer / TSC – ONADICI Liaison</p> <p>Franklin Reyes, Auditor of the Investigation and Verification Sector</p> <p>Rigoberto Córdova Laitano, Magistrate’s Assistant</p> <p>National Office for the Integral Development of Internal Oversight, ONADICI</p> <p>Andrés Menocal Medina, Executive Director</p> <p>Ingrid Yanira Deras, Internal Control Specialist</p> <p>Luis Edgardo Bourdeth Flores, Systems Specialist</p> <p>Hernán Cárcamo, Legal Advisor</p>
18:30 hrs	Informal meeting ¹¹⁴ between the representatives of the Subgroup Member States and the Technical Secretariat.
Wednesday, October 3, 2012	
8:30 hrs – 9:30 hrs	Panel 5: Public Prosecution Service
	<p>Topic:</p> <ul style="list-style-type: none"> • Initial presentation: functions, objectives, and structure • Results in relation to the fulfillment of responsibilities
	<p>Public Prosecution Service</p> <p>Fanny Yaneth Martinez, Coordinator, Office of the Special Anticorruption Prosecutor</p> <p>Leonardo Martín Orellana, Lead Prosecutor I, Office of the Special Anticorruption Prosecutor</p> <p>Aníbal Federico Izaguirre, Lead Prosecutor II, Office of the Special Anticorruption Prosecutor</p> <p>Kenia Zapata, Legal Advisor, Human Resource Division, Public Prosecution Service</p> <p>Marvin Cruz, Information Officer, Public Relations of the Public Prosecution Service</p>

¹¹⁴ The second paragraph of provision 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...”

9:30 hrs – 11:30 hrs	Panel 6: Public Prosecution Service
	<p>Topics:</p> <ul style="list-style-type: none"> • Difficulties encountered and technical cooperation needs • Human resource regime • Internal rules/norms for the fulfillment of its functions • Internal control mechanisms
	<p>Public Prosecution Service</p> <p>Fanny Yaneth Martinez, Coordinator, Office of the Special Anticorruption Prosecutor</p> <p>Leonardo Martín Orellana, Lead Prosecutor I, Office of the Special Anticorruption Prosecutor</p> <p>Aníbal Federico Izaguirre, Lead Prosecutor II, Office of the Special Anticorruption Prosecutor</p> <p>Kenia Zapata, Legal Advisor, Human Resource Division, Public Prosecution Service</p> <p>Marvin Cruz, Information Officer, Public Relations of the Public Prosecution Service</p>
11:30 hrs – 12:30 hrs	Panel 7: Public Prosecution Service
	<p>Topics:</p> <ul style="list-style-type: none"> • Coordination mechanisms with civil society • Accountability • Follow-up on first-round recommendations: • Mechanisms for civil society participation and access to information
	<p>Public Prosecution Service</p> <p>Fanny Yaneth Martinez, Coordinator, Office of the Special Anticorruption Prosecutor</p> <p>Leonardo Martín Orellana, Lead Prosecutor I, Office of the Special Anticorruption Prosecutor</p> <p>Aníbal Federico Izaguirre, Lead Prosecutor II, Office of the Special Anticorruption Prosecutor</p> <p>Kenia Zapata, Legal Advisor, Human Resource Division, Public Prosecution Service</p> <p>Marvin Cruz, Information Officer, Public Relations of the Public Prosecution</p>

	Service
12:30 hrs – 14:30 hrs	Lunch
14:30 hrs – 15:30 hrs	Panel 8: Office of the Attorney General of the Republic
	<p>Topic:</p> <ul style="list-style-type: none"> • Initial presentation: functions, objectives, and structure • Results in relation to the fulfillment of responsibilities
	<p>Office of the Attorney General of the Republic Alva Gladis Aguilar, Judicial Attorney, PGR Mirna Andino , Head of Planning and Budget Angela Madrid , Regional Head, PGR</p>
15:30 hrs – 16:30 hrs	Panel 9: Office of the Attorney General of the Republic
	<p>Topics:</p> <ul style="list-style-type: none"> • Difficulties encountered and technical cooperation needs • Conflicts of jurisdiction: the Interinstitutional Criminal Justice Commissions (Art. 7 of the Organic Law of the PGR)
	<p>Office of the Attorney General of the Republic Alva Gladis Aguilar, Judicial Attorney, PGR Mirna Andino , Head of Planning and Budget Angela Madrid , Regional Head, PGR</p>
16:30 hrs – 17:30 hrs	Panel 10: Office of the Attorney General of the Republic
	<p>Topics:</p> <ul style="list-style-type: none"> • Interinstitutional coordination mechanisms • Human resource regime • Internal rules/norms for the fulfillment of its responsibilities
	<p>Office of the Attorney General of the Republic Alva Gladis Aguilar, Judicial Attorney, PGR Mirna Andino , Head of Planning and Budget Angela Madrid , Regional Head, PGR</p>
17:30 hrs – 18:30 hrs	Panel 11: Office of the Attorney General of the Republic

	<p>Topics:</p> <ul style="list-style-type: none"> • Internal control mechanisms • Accountability • Follow-up on first-round recommendations: <ul style="list-style-type: none"> - Mechanisms for civil society participation and access to information
	<p>Office of the Attorney General of the Republic Alva Gladis Aguilar, Judicial Attorney, PGR Mirna Andino , Head of Planning and Budget Angela Madrid , Regional Head, PGR</p>
18:30 hrs	Informal meeting ¹¹⁵ between the representatives of the Subgroup Member States and the Technical Secretariat.
Thursday, October 4, 2012	
08:30 hrs – 09:30 hrs	Panel 12: Judicial Branch
	<p>Topics:</p> <ul style="list-style-type: none"> • Initial presentation: functions, objectives, and structure • Results in relation to the fulfillment of responsibilities
	<p>Supreme Court of Justice (CSJ) Fabiola Pineda Guevara, Advisor to the Interinstitutional Justice Commissions Unit Mario Cañas Sánchez, Specialized Technician of the Interinstitutional Justice Commissions Unit</p>
09:30 hrs – 10:30 hrs	Panel 13: Judicial Branch
	<p>Topics:</p> <ul style="list-style-type: none"> • Difficulties encountered and technical cooperation needs • Regime of competencies and interinstitutional coordination mechanisms

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	<ul style="list-style-type: none"> • Dissemination of objectives and functions
	<p>Supreme Court of Justice (CSJ) Fabiola Pineda Guevara, Advisor to the Interinstitutional Justice Commissions Unit Mario Cañas Sánchez, Specialized Technician of the Interinstitutional Justice Commissions Unit</p>
10:30 hrs – 11:30 hrs	Panel 14: Judicial Branch
	<p>Topics:</p> <ul style="list-style-type: none"> • Human resource regime • Internal rules/norms for the fulfillment of its responsibilities • Internal control mechanisms
	<p>Supreme Court of Justice (CSJ) Fabiola Pineda Guevara, Advisor to the Interinstitutional Justice Commissions Unit Mario Cañas Sánchez, Specialized Technician of the Interinstitutional Justice Commissions Unit</p>
11:30 hrs – 12:30 hrs	Panel 15: Judicial Branch
	<p>Topics:</p> <ul style="list-style-type: none"> • Accountability • Follow-up on first-round recommendations: <ul style="list-style-type: none"> – Mechanisms for access to information – Conflicts of interest
	<p>Supreme Court of Justice (CSJ) Fabiola Pineda Guevara, Advisor to the Interinstitutional Justice Commissions Unit Mario Cañas Sánchez, Specialized Technician of the Interinstitutional Justice Commissions Unit</p>
12:30 hrs – 14:30 hrs	Lunch
14:30 hrs – 17:15 hrs	Panel 16: Follow-up on first-round recommendations
	<p>Topic: The Law on Transparency and Access to Public Information (LTAIP) and</p>

	its implementation
	<p>Public Information Access Institute (IAIP) Kalton Bruhl, Legal Manager Saul Heribrando Bueso Licona, Legal Assistant</p>
17:15 hrs – 18:30 hrs	Panel 17: National Banking and Insurance Commission (CNBS)
	<p>Topic:</p> <ul style="list-style-type: none"> • Initial presentation: functions, objectives, and structure • Results in relation to the fulfillment of responsibilities • Follow-up on first-round recommendations <p style="text-align: center;">- Verification of sworn statements</p>
	<p>National Banking and Insurance Commission (CNBS) Vilma Cecilia Morales Montalván, President Carlos Roberto Ortega Medina, General Secretary Karla Victoria Báez, Director for Legal Advice María Teresa Jerez, Administrative Director</p> <p>Superior Court of Accounts (TSC) Delia Karina Mejía, Head of the Probity Department Franklin Reyes, Auditor of the Investigation and Verification Sector Rigoberto Córdoba</p>
18:30 hrs	Informal meeting between the representatives of the Subgroup Member States and the Technical Secretariat.
19:00 hrs	Final meeting between the representatives of the country under review, the Subgroup Member States, and the Technical Secretariat.

**AUTHORITIES WHO SERVED AS CONTACTS IN THE STATE UNDER REVIEW FOR
THE COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE
PRELIMINARY REVIEW SUBGROUP MEMBER STATES AND OF THE MESICIC
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