

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

FINAL REPORT

(Adopted at the March 21, 2014 Plenary Session)

SUMMARY OF THE REPORT

This report contains the comprehensive review of the implementation in the Dominican Republic of Article III, paragraph 9 of the Inter-American Convention against Corruption, corresponding to “high-level oversight bodies, with a view to developing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt practices,” which was selected by the Committee of Experts of the MESICIC for the Fourth Round; the best practices reported by those bodies; and monitoring of the implementation of the recommendations made to the Dominican Republic 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 conducted on the basis of the Dominican Republic’s reply to the questionnaire; the information provided by civil society organizations; the information gathered by the Technical Secretariat; and a new and important source of information, namely the on-site visit conducted between October 8 and 10, 2013 by members of the Dominican Republic review subgroup, composed of Honduras and Uruguay, with the support of the Technical Secretariat. On that occasion, it was possible to explain, clarify and supplement the information provided by the Dominican Republic and to hear the views of civil society organizations and professional associations on topics of use for the analysis, all of which helped to ensure that the Committee had full and objective information on those matters.

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 oversight bodies of the Dominican Republic analyzed in this report are the Bureau of Governmental Integrity and Ethics (DIGEIG), the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA), the judiciary, the Court of Accounts of the Dominican Republic (CCRD), and the Office of the Comptroller General (CGR).

Some of the recommendations regarding the foregoing bodies put to the Dominican Republic for its consideration were geared to achieving purposes such as the following:

With respect to the DIGEIG, consider giving its creation the rank of law approved by Congress; adopt its operating regulations, procedures manuals for its main areas, and mechanisms for institutional coordination with certain entities; provide it with the staff that it needs to perform its functions, as well as sufficient funds to provide them with specialized training; ensure that public-sector institutions act in a timely manner to supply it with the information and documents that it needs to proceed with investigations in its area of responsibility; adopt follow-up mechanisms that enable it to know the outcome of the penalties that it recommends and of the complaints of acts of corruption that it refers to the appropriate authorities; keep statistics on the foregoing in order to identify challenges and recommend corrective measures; and develop the function of

conducting studies on the individual and coordinated operations of organs that control the use of public resources envisaged in the Constitution and laws with the aim of correcting any weaknesses detected.

Regarding the PEPCA, formalize the adoption of its Internal Regulations on Investigation Policy and Procedures; update its Organization and Functions Manual; define the significance criteria by which to stipulate guidelines for selecting cases that will be handled directly by the Office of its Director; take the appropriate steps to ensure the technical, administrative, and functional independence of the PEPCA and of its prosecutors; adopt a more expedite procedure for recovering assets associated with acts of corruption; select its technical and administrative staff based on a system of merit; provide it with sufficient prosecutors and investigators; strengthen training mechanisms for its specialized staff; examine the causes that might have contributed to acts of corruption being declared time-barred for legal action, with a view to identifying challenges and recommending corrective measures; and adopt a monitoring system that would enable it to know the amounts of what has been recovered and placed in the Government coffers as a result of steps taken to recover assets connected with acts investigated by the PEPCA.

Concerning the judiciary, adopt the necessary measures to allocate the judiciary the appropriate budget in accordance with the law; put into operation the criminal courts that have been created by the law but are not yet operational; ensure implementation of the “Hearings Audio Capture” modernization project and the line of action on “systematization, creation, and dissemination of jurisprudence and judicial documents” envisaged in the Strategic Plan 2009-2013, in the country’s criminal justice system, particularly where corruption is concerned; ensure the territorial expansion of the criminal court office management model (MGDP); impart to criminal court judges specific training in trying acts of corruption recognized in the Criminal Code; and prepare statistics on corruption cases before different courts in the judiciary, in order to identify challenges and recommend corrective measures.

In relation to the CCRD, adopt a more expedite procedure for recovering, through civil proceedings, assets linked to declarations of civil liability; adopt appropriate measures to enable the CCRD to conduct effective oversight in municipalities; ensure that the Dominican Municipal League provides the CCRD with appropriate cooperation; ensure execution of the objectives contained in the Strategic Plan for Institutional Development and Sustainability 2010-2016 (PEDSI) on which progress is low; take the appropriate steps so that the CCRD can effectively exercise its budgetary autonomy and can request international organizations to provide it with the economic and technical assistance necessary to provide its personnel with specialized training and to ensure it the logistical support and information technology equipment that it requires; update its Human Resources Regulations; adopt a monitoring system that would enable it to know how the competent authorities process cases in which it has declared administrative and civil liability, in order to identify challenges and recommend corrective measures; conduct a study to determine the possible underlying causes of the few convictions handed down by the law courts based on the evidence of criminal liability found by the CCRD, in order to identify challenges and recommend corrective measures; and compile statistics on its corruption prevention activities, the results of its audits, and investigations of complaints or reasonable suspicions of wrongdoing involving state-owned assets, in order to identify challenges and recommend corrective measures.

As regards the CGR, consider reforming the law that created the National Internal Control System and the CGR, in order to make it consistent with the new constitutional provisions in that regard; adopt the Rules of Procedure on Public Servant Liability envisaged in that law; draft a plan of action on “Implementation of a System of Societal Comptrollership”; provide it with the necessary resources to adapt its technology platform to the needs of its operational structure

and to implement its Information Technology Strategic Plan; allocate it the necessary budget funds to carry out the activities connected with the goals in the Institutional Strategic Plan 2010-2012 that correspond to the strategic objectives of “Institutional Strengthening” and “Operations,” which are pending or have been postponed until the next Plan; provide it with the necessary resources to carry out its responsibilities, in particular, with respect to control of the decentralized sector and municipalities, as well as for providing training to its staff and having specialized staff and better physical infrastructure; and compile statistics on actions carried out to support plans and programs for preventing corruption, on the number of administrative investigations carried out, on the number of resolutions establishing administrative liability, on the number of inspections or evaluations carried out and recommendations made to entities for improving internal control, in order to identify challenges and recommend corrective measures.

The best practices reported by the Dominican Republic concerned the standardization of the websites of public-sector agencies based on DIGEIG guidelines; the creation of a Forensic Audit Unit attached to the PEPCA, which assists investigations in the area of financial analysis and provides expert evidence; the Judicial Career System, “which governs the entry, training, promotion, separation, and retirement of judges based on the principles of merit, ability, and professionalism”; and implementation and follow-up of the National Internal Control System through the adoption of the Basic Standards on Internal Control (NOBACI) the aim of which is “to standardize processes and controls in government entities.”

With regard to follow-up on the recommendations formulated to the Dominican Republic in the First Round and which, according to the Committee in its Second and Third Round reports, required additional attention, based on the methodology for the Fourth Round and bearing in mind the information provided by the Dominican Republic in its response to the questionnaire and during the on-site visit, a determination was made as to which of those recommendations had been satisfactorily implemented, which required additional attention, which required reformulation, and which no longer applied. A list of those still pending was also prepared, and has been included in Annex I of the report.

As to progress made with the implementation of those recommendations, of particular note are the legal measure adopted with regard to the Civil Service Law, which expressly prohibits spouses and relatives up to the third degree from working in the same institution; the appointment of a governing body on conflict of interest; the allocation to that body of responsibilities with regard to receipt and investigation of complaints of alleged violations of ethical and disciplinary standards, which also has electronic mechanisms to facilitate lodging such complaints; the preparation of an online form through which obligated government officials can submit sworn declarations of assets; the presentation of an annual financial report by those officials to complement their declarations; the public availability of copies of those declarations via the PEPCA website; the appointment of the Ombudsman; the designation of a governing body on freedom of access to public information; and progress in standardizing the websites of public-sector agencies based on that body's guidelines, as well as in the opening of public information offices..

Some of the recommendations put to the Dominican Republic in the First Round that are still relevant aim, for instance, to: strengthen implementation of laws and regulatory systems on conflict of interest, so as to allow practical and effective enforcement of a system of public ethics; strengthen the operating capacity of the General Bureau of National Property so that it can properly perform its responsibilities in terms of creating and maintaining an inventory of state-owned property; continue and improve the work performed by the General Accounting Office in organizing the State's accounts, ensuring that it has the necessary resources to carry out its work; improve systems for control and evaluation of the contents of declarations of income, assets, and

liabilities; move ahead with the implementation of the General Freedom of Public Information Act; strengthen existing consultation mechanisms; strengthen and continue implementing mechanisms to encourage civil society and nongovernmental organizations to participate in public administration and its follow-up; continue to determine those specific areas in which it sees the need for technical cooperation with other states parties in order to strengthen its capability to prevent, detect, investigate and punish acts of corruption; and develop procedures and indicators that make it possible to verify follow-up on the recommendations made in the First Round.

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

**REPORT ON IMPLEMENTATION IN THE DOMINICAN REPUBLIC 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 ROUND ¹**

INTRODUCTION

1. Contents of the Report

[1] This report presents, first, a comprehensive review of the implementation in the Dominican Republic of the provision of the Inter-American Convention against Corruption selected by the Committee of Experts of the Follow-up Mechanism (MESICIC) for review in 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 Dominican Republic in the report it adopted for that country in the First Round and that it deemed to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which are available online at: <http://www.oas.org/juridico/spanish/repdom.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, the Dominican Republic deposited its instrument of ratification of the Inter-American Convention against Corruption on March 29, 1996.

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

I. SUMMARY OF THE INFORMATION RECEIVED

1. Response of the Dominican Republic

[6] The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Dominican Republic, in particular, from the Government Ethics and Integrity Bureau [*Dirección General de Ética e Integridad Gubernamental*] (DIGEIG), which was evidenced, inter alia, in the response to the Questionnaire, in the constant willingness to clarify or complete its

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, 2014 plenary session, within the framework of the Twenty-third Meeting of the Committee, held at OAS headquarters in Washington, D.C., from March 18 to 21, 2014.

contents, and in the support for the on-site visit, to which the following paragraph of this report refers. Together with its response, the Dominican Republic sent the provisions and documents it considered pertinent. Said response, provisions and documents are available at:http://www.oas.org/juridico/spanish/mesicic4_reptom.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 Review Subgroup, the representatives of Honduras and Uruguay conducted the on-site visit from April 8 to 10, 2013, 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 Dominican Republic up to October 10, 2013, the date on which the aforementioned visit ended, 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 on the following web page:
http://www.oas.org/juridico/spanish/mesicic4_reptom.htm

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

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

[10] However, in the course of the on-site visit conducted in the country under review, information was collected from civil society organizations and professional associations invited to participate in meetings to that end, in keeping with the provisions contained in item 27 of the *Methodology for Conducting On-site Visits*. A list of those persons is included in the agenda for that visit, which is annexed hereto. Where relevant to the purposes of this report, that information is reflected in the appropriate sections hereof.

II. REVIEW, CONCLUSIONS, AND RECOMMENDATIONS REGARDING THE STATE PARTY'S IMPLEMENTATION 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 (9) OF THE CONVENTION)

[11] The following is a brief description of the purposes and functions of the five bodies selected by the Dominican Republic that are analyzed in this report:

[12]- The Bureau of Governmental Integrity and Ethics [*Dirección General de Ética e Integridad Gubernamental*] (DIGEIG) which, according to Article 1 of Decree 486-12, is the governing entity on ethics, transparency, open governance, the fight against corruption, conflicts of interest, and free access to information in the governmental administrative sphere.

² Document SG/MESICIC/doc.276/11 rev. 2, available at: www.oas.org/juridico/english/met_onsite.pdf

[13] - The Office of the Special Attorney to Prosecute Corruption in Public Administration [*Procuraduría Especializada de Persecución de la Corrupción Administrativa*] (PEPCA), which, according to Articles 1 and 2 of Resolution No. 0003 of February 4, 2013, is attached to the Bureau of Prosecutions [*Dirección General de Persecución*] of the Public Prosecution Service [*Ministerio Público*], sets national policy on prosecution of corruption-related offenses in public administration and advises prosecutors within its field of specialization.

[14] - The Judicial Branch (PJ), which, according to Article 149 of the Constitution, administers justice in the name of the Republic. This power is exercised by the Supreme Court of Justice and the other tribunals created by the country's Constitution and laws.

[15] - The Court of Accounts of the Dominican Republic [*Cámara de Cuentas de la República Dominicana*] (CCRD), which, according to Article 248 of the Constitution, is the organ in charge of external fiscal oversight of public funds, administrative processes, and State-owned assets.

[16] - The Office of the Comptroller General of the Republic [*Contraloría General de la República*] (CGR), which, pursuant to Article 247 of the Constitution, is the executive branch body that supervises internal oversight, conducts internal inspections and evaluations of the proper collection, management, use and investment of public funds, and authorizes payment orders following corroboration of compliance with legal and administrative procedures, by the institutions within its area of responsibility in accordance with the law.

1. BUREAU OF GOVERNMENTAL INTEGRITY AND ETHICS (DIGEIG)

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

[17] The Bureau of Governmental Integrity and Ethics (DIGEIG) has a set of provisions in its legal framework, as well as other measures that refer, *inter alia*, to the following:

[18] As regards its objective, according to Article 1 of Decree 486-12,³ which created it in August 2012, the DIGEIG is the governing entity on ethics, transparency, open governance, the fight against corruption, conflict of interest, and freedom of access to information in the governmental administrative sphere.

[19] Pursuant to Articles 3 and 4 of Decree 486-12, the DIGEIG is attached to the Ministry of the Presidency and is required to submit its plans and proposals to the executive branch for the latter's information and approval. It is headed by a director general, who is appointed by the president of the Republic; it also has an executive director, who is responsible for technical and operational matters in the institution. Both directors are officials who may be appointed and removed at discretion.

[20] As regards its functions,⁴ Article 6 of Decree 486-12 envisages, *inter alia*, the following where prevention of corruption is concerned: to help build and strengthen a culture of ethics, transparency, and honesty, and promote ethical and moral values in public administration (paragraph 3); to monitor and advise ethics committees (CEP) in order to ensure the adequate performance of their functions and active participation in the workings of each institution (paragraph 4); to provide advice to civil servants on any doubts that they might have with regard to ethical and moral conduct in the performance of their duties (paragraph 5); to encourage and conduct investigations in the public administration on ethical issues and identify opportunities for strengthening the framework of ethical

³ This decree is available at: http://www.oas.org/juridico/PDFs/mesicic4_reptom_decDIGEIG.pdf

⁴ For a full list of the functions assigned to the DIGEIG, see Article 6 of Decree 486-12, available at the above link.

standards (paragraph 6); to design and execute training programs for the members of ethics committees of public-sector institutions (paragraph 7); to monitor the commitments pending under the Participatory Anticorruption Initiative [*Iniciativa Participativa Anticorrupción*] (IPAC) in the areas of government transparency and ethics (paragraph 9); and contribute to the strengthening of prevention and control models in the administrative sphere (paragraph 18).

[21] Article 6 of Decree 486-12 also assigns the following functions to the DIGEIG in connection with the investigation and punishment of corruption: to investigate the actions of civil servants that violate the ethical and disciplinary standards set down in the Civil Service Law [*Ley de Función Pública*] when the authorities responsible fail to adopt corrective measures in a timely manner (paragraph 2); to receive complaints regarding alleged violations to the detriment of the State, Dominican society, or public servants, that infringe ethical and disciplinary standards, the prohibitions set forth in Law 41-08, or any other rules on conflict of interest and prohibited conduct applicable to civil servants, and to recommend appropriate penalties, without detriment to the powers of the Ministry of the Civil Service (*Ministerio de Administración Pública*) envisioned in said law (paragraph 20); to impose appropriate penalties if the institution in which the civil servant is employed omits to do so (paragraph 21); to refer to the appropriate bodies such complaints of acts of corruption in the public sector as may be brought to its attention by individuals or institutions, or through CEPs, the DIGEIG itself, public rumor, or other means, concerning fraudulent conduct on the part of public officials or civil servants, in order that those bodies might weigh the merits of such complaints and, as appropriate, institute the relevant legal proceedings (paragraph 23); refer investigations to the Public Prosecution Service, where appropriate; follow-up on the cases submitted until a final solution is reached, and respond to society or the victims (paragraph 24).

[22] Article 6 of Decree 486-12 also assigns other functions to the DIGEIG as the governing authority on access to public information under Article 5 of the same decree, as well as other powers in relation to the Sworn Declaration of Net Worth system, with respect to the legal obligation of filing those declarations.

[23] Finally, one noteworthy function of the DIGEIG is set out in Article 6(26) of Decree 486-12 and has to do with the conduct of studies on the individual and coordinated operations of organs that control the use of the public resources envisaged in the Constitution and laws of the Dominican Republic, or on any other matter having to do with the functions of the DIGEIG; the presentation of appropriate recommendations to the executive branch, and the design and execution of a joint plan of action to follow up on the implementation of those recommendations with the aim of correcting any weaknesses detected.

[24] As to coordination of its functions with other organs and obtaining assistance from other authorities and the citizenry, Article 6(28) of Decree 486-12 grants the DIGEIG power to coordinate with the country's control, oversight, and audit institutions: Court of Accounts (CCRD), Office of the Comptroller General of the Republic (CGR), and Department for Prevention of Corruption in Public Administration [*Dirección de Prevención de la Corrupción Administrativa*] (DPCA), as well as with civil society organizations, including the Institute of Public Accountants of the Dominican Republic [*Instituto de Contadores Públicos de la República Dominicana*] (ICPARD) and the Institute of Internal Auditors of the Dominican Republic [*Instituto de Auditores Internos de la República Dominicana*] (IARD), among others, in order to seek their expertise in carrying out the mandate of following up on complaints originating from any member of a government institution. Article 2 of the above Decree requires all executive-branch institutions to offer their full cooperation to the DIGEIG, furnish it with such information as it may request, allow it access to their institutional archives, and provide it with timely response.

[25] In fulfillment of the foregoing, the DIGEIG has signed cooperation agreements with the General Directorate of Internal Revenue [*Dirección General de Impuestos Internos*] (DGII), the Institute of Public Accountants of the Dominican Republic (ICPARD), and the Institute of Internal Auditors of the Dominican Republic (IARD).⁵

[26] The decisions that the DIGEIG adopts are unipersonal in nature as they emanate from the Director General, the Executive Director, and department heads. As an agency attached to the Ministry of the Presidency, in accordance with Article 1 of Decree 486-12, all DIGEIG decisions are subject to review by that ministry.⁶

[27] The DIGEIG has three main areas: the Department of Promotion of Ethics and Integrity (*Departamento de Promoción a la Ética e Integridad*), which is responsible for executing plans and measures designed to encourage and raise social awareness about ethics in public administration; the Department of Governmental Transparency (*Departamento de Transparencia Gubernamental y Acceso a la Información*), which designs state policies on transparency and the fight against corruption in the public sector; and the Department of Investigation and Follow-up (*Departamento de Investigación y Seguimiento*), the main function of which is to investigate public servants who infringe the ethical and disciplinary rules set forth in the Civil Service Law (*Ley de Función Pública*), as well as to identify possible violations of criminal law arising from such disciplinary transgressions.⁷

[28] As regards its human resources, their training, and the rules applicable to them, the DIGEIG is governed by Law 41-08 (Civil Service Law), which regulates, *inter alia*, the civil service career and employment through competitive processes (Article 37) and the ethical and disciplinary standards for public servants (Articles 77 to 89). It is also governed by Implementing Regulations 523-09 on Labor Relations, which recognize the right of civil servants to receive appropriate induction and training (Articles 48 to 54) and contain rules with regard to their duties (Articles 97 to 100), grades of disciplinary violations and penalties (Articles 101 to 109), and the disciplinary process (Articles 110 to 125).

[29] With regard to its budgetary resources, Article 1(II) of Decree 486-12 provides that the necessary resources for the DIGEIG's operations shall be furnished directly by the executive branch from the national budget and through special appropriations.

[30] As regards job descriptions and the existence of manuals or documented procedures for the performance of tasks, the DIGEIG has a Posts Manual that describes the duties pertaining to the various positions in the entity and the requirements for their holders. It also has an Information Technology Policies Manual and an Internal Control Policies Manual.⁸ In addition, with respect to rules governing its operations, Article 11 of Decree 486-12 gave the DIGEIG 60 days following its promulgation to submit to the executive branch for consideration the operating regulations that would govern its functions.⁹

⁵ These agreements are available at: http://www.oas.org/juridico/spanish/mesicic4_reptom.htm (sections pertaining to the DIGEIG)

⁶ Response of the Dominican Republic concerning the DIGEIG, p. 2.

⁷ See presentation of the DIGEIG during the on-site visit, available at: http://www.oas.org/juridico/ppt/mesicic4_reptom_plan.ppt

⁸ These agreements are available at: http://www.oas.org/juridico/spanish/mesicic4_reptom.htm (sections pertaining to the DIGEIG)

⁹ The DIGEIG reported that the draft operating regulations had been presented to the executive branch but that the relevant decree adopting them has not yet been issued.

[31] With respect to mechanisms for supplying information to the public and accountability, citizens may access information about the institution, its legal framework, work plans, statistics, list of employees, budget execution, and online assistance via the “Transparency” link on the DIGEIG website (<http://digeig.gob.do/trans/s/>), as well as download the necessary forms to request information. The Planning Department also prepares the entity’s annual performance reports for the Ministry of the Presidency,¹⁰ and citizens may file complaints and claims in conformity with Decree 694-09.

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

[32] The Bureau of Governmental Integrity and Ethics (DIGEIG), has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were briefly described in section 1.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[33] First, Article 6(21) of Executive Decree 486-12, which creates the DIGEIG, assigns it the function of “impos[ing] appropriate penalties if the institution in which the civil servant is employed omits to do so,” which is difficult to square with the powers to decide whether or not to impose penalties as a result of investigations into cases involving potential administrative infringements that Articles 85 and 86 of the Civil Service Law (Law 41-08) accord to the supervisors of civil servants, the heads of the institutions where they work, and the President of the Republic, depending on the severity of the penalty to be imposed, which take precedence over the aforesaid executive decree given their superior legal rank. Accordingly, the Committee will formulate a recommendation to the country under review to the effect that it consider adopting the appropriate measures to exclude the foregoing function from the powers of the DIGEIG (see Recommendation 1.4.1 in Chapter II of this report).

[34] In addition, the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, considered it advisable for the powers of the DIGEIG be reviewed to ensure that there is no conflict with institutions of a constitutional and legal nature over which the DIGEIG has no authority or legal seniority.

[35] Second, the creation of the DIGEIG by Executive Decree means that the scope of certain important functions that it performs, such as those aimed at preventing corruption, cannot extend beyond the executive branch and cannot cover the other branches of government, which do not have bodies such as this, as well as making its long-term durability vulnerable. Therefore, the Committee will formulate a recommendation to the country under review to the effect that it consider taking the necessary steps to give the rank of law to the creation of the DIGEIG and extend the scope of its functions beyond the executive branch, in keeping with the powers that the Dominican Constitution recognizes to other State organs and branches of government (see Recommendation 1.4.2 in Chapter II of this report).

[36] Third, with regard to its function under Article 6(2) of Decree 486-12 “to investigate the actions of civil servants that violate the ethical and disciplinary standards set down out the Civil Service Law when the authorities responsible fail to adopt corrective measures in a timely manner,” it was established during the on-site visit that the criteria for determining when the authorities responsible are considered not to have adopted corrective measures in a timely manner, have not been defined in writing. Bearing in mind that the adoption of such criteria would be beneficial to the DIGEIG, by

¹⁰ Owing to the fact that the DIGEIG was created on August 21, 2012, as of the on-site visit (October 8 to 10, 2012) only a report for September to December 2012 had been prepared. It is available at: http://www.oas.org/juridico/spanish/mesicic4_repdom.htm (sections pertaining to the DIGEIG)

allowing it to know clearly when the foregoing power should be used, the Committee will formulate a recommendation to that effect to the country under review (see Recommendation 1.4.3 in Chapter II of this report).

[37] Fourth, in spite of the fact that Article 11 of Decree 486-12 provides, with respect to rules governing its operations, that the DIGEIG had 60 days following the Decree's promulgation (on August 21, 2012) to submit the operating regulations that would govern its functions to the executive branch for consideration, these regulations have not yet been adopted by the executive branch, even though the DIGEIG has submitted the relevant draft for its consideration. Bearing in mind the importance to the DIGEIG of having those regulations in place, the Committee will formulate a recommendation in this regard to the country under review (see Recommendation 1.4.4 in Chapter II of this report).

[38] Fifth, during the on-site visit, DIGEIG reported that the procedures manuals for the entity's main areas had not yet been adopted and that the Positions Manual was under review. Therefore, the Committee will formulate a recommendation to the country under review to the effect that it consider adopting these manuals and conclude the review of the DIGEIG Positions Manual (see Recommendation 1.4.5 in Chapter II of this report).

[39] Sixth, bearing in mind that Article 6 (28) of Decree 486-12 expressly provides for coordination between the DIGEIG and the Court of Accounts of the Dominican Republic, the Office of the Comptroller General, the Department for Prevention of Corruption in Public Administration (currently the Office of the Special Attorney to Prosecute Corruption in Public Administration), and civil society organizations, the Committee believes that it would be useful for the country under review to consider introducing the necessary mechanisms to bring that coordination into effect and therefore, it will formulate a recommendation to that effect (see Recommendation 1.4.6 in Chapter II of this report).

[40] It is worth noting in relation to the foregoing that the DIGEIG has already entered into coordination and cooperation agreements with the General Directorate of Internal Revenue [*Dirección General de Impuestos Internos*] (DGII), the Institute of Public Accountants of the Dominican Republic (ICPARD), and the Institute of Internal Auditors of the Dominican Republic (IARD), which agencies are also expressly mentioned in Article 6(28) of Decree 486-12 and that, according to information supplied in the course of the on-site visit, a draft agreement with the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) already exists.

[41] Seventh, taking into account that the DIGEIG was only recently created, the Committee will formulate a recommendation to the State under review for it to consider taking the appropriate steps to ensure that this entity is provided with the personnel it needs in both its operational and support areas and to provide it with specialized training (see recommendation 1.4.7 in Chapter II of this report).

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

[42] Information was gathered regarding the results achieved by the Bureau of Governmental Integrity and Ethics (DIGEIG), of which the following is highlighted:

[43] First, the following information was provided in the course of the on-site visit with regard to the corruption prevention functions of the DIGEIG:

[44] - Resolution 01/2012 was adopted, instructing all managers of central government public-sector institutions to create and/or maintain in effect and operational an ethics committee (CEP). This

measure led to the establishment of 239 such committees in 172 public-sector institutions nationwide, 120 of which have participated in diploma training courses on public ethics. In addition, 329 codes of ethics have been signed and 40 reports assessing compliance with those codes of ethics by CEPs have been received.

[45] - Resolution 02/2012 was adopted, instructing the maximum authorities of central government and decentralized public-sector institutions to establish Public Information Offices. This measure has led to the creation of 195 such offices out of an overall target of 209.

[46] - Resolution 01/2013 was issued, requiring all government web portals and websites to have a transparency section that can be easily accessed from the “home page.” As a result, out of 183 institutions, 85 have standardized the information on their websites in accordance with the Resolution.

[47] With regard to the foregoing, the Committee believes that it would be useful for the DIGEIG to confirm that it has carried out its prevention functions in the areas to which the above information refers, with the results described, which correspond to the period between its inception on August 21, 2012, and the date of the on-site visit.

[48] Second, with regard to the investigation functions of the DIGEIG in relation to corruption cases, in its response to the questionnaire, the country under review provided the following information:¹¹ “Between August 2012 and July 2013, the Department of Investigation and Follow-up (DIS) was assigned 84 cases, of which 71 have so far been concluded. • 13 of those cases are in the process of investigation. • 6 have been suspended or halted for lack of response from the public-sector institutions from which documentation has been requested in order to continue the investigation. • No investigations have come to an end because of the expiry of any deadline. • Only one investigation has been set aside because it was referred to the Public Prosecution Service.”

[49] Regarding the above information, bearing in mind that it mentions that six cases have been suspended or halted for lack of response from the public-sector institutions from which documentation has been requested in order to continue the investigation, the Committee will formulate a recommendation to the country under review in the sense that it consider adopting appropriate measures to ensure that public-sector institutions act in a timely manner to supply the DIGEIG with the information and documents that it needs to proceed with investigations in its area of responsibility (see Recommendation 1.4.8 in Chapter II of this report).

[50] Third, given that during the on-site visit it was established that the DIGEIG does not have a follow-up system that enables it to know the outcome of the penalties that it recommends in keeping with its functions under Article 6 of Decree 486-12, the Committee will formulate a recommendation to the country under review that it consider adopting such a system (see Recommendation 1.4.9 in Chapter II of this report).

[51] Fourth, taking into account that the information supplied by the country under review regarding the investigation of cases of corruption by the DIGEIG does not include data on the number of punishments that it recommends on the basis of those investigations, or on the number of investigations that have concluded without penalties being recommended, the Committee will formulate a recommendation that it consider recording statistics in those respects (see Recommendation 1.4.10 in Chapter II of this report).

¹¹ Response of the Dominican Republic concerning the DIGEIG, p. 6.

[52] Fifth, considering that in the course of the on-site visit it was found that the DIGEIG does not have a follow-up system that enables it to know the outcome of complaints of acts of corruption in public administration that, pursuant to Article 6 (23) of Decree 486-12, it channels through the relevant authorities so that the competent agencies might assess their merits and, as appropriate, institute the applicable legal proceedings, or the results of investigations submitted to the Public Prosecution Service pursuant to Article 6(24) of said decree, the Committee will formulate a recommendation to the country under review that it consider adopting such a system (see Recommendation 1.4.11 in Chapter II of this report).

[53] Sixth, bearing in mind that it was found during the on-site visit that the DIGEIG has not developed the functions under Article 6(26) of Decree 486-12 that it conduct studies on the individual and coordinated operations of organs that control the use of the public resources envisaged in the Constitution and laws of the Dominican Republic, present appropriate recommendations to the executive branch, and design and execute of a joint plan of action to follow up on the implementation of those recommendations with the aim of correcting any weaknesses detected, the Committee will formulate a recommendation to the country under review that it consider adopting the necessary measures to develop those functions (see Recommendation 1.4.12 in Chapter II of this report).

[54] It is worth noting, where coordination among oversight bodies is concerned, that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, mentioned that at present each body works on an individual basis without taking into account that they are part of the broader oversight system and that coordination among the essential; therefore, mechanisms need to be designed that enable effective coordination of their measures and continuous monitoring of their plans and policies.

1.4. Conclusions and recommendations

[55] Based on the foregoing comprehensive analysis of the Bureau of Governmental Integrity and Ethics (DIGEIG), the Committee offers the following conclusions and recommendations:

[56] The Dominican Republic has considered and adopted measures intended to maintain and strengthen the Bureau of Governmental Integrity and Ethics (DIGEIG) as an oversight body, as indicated in Section 1 of Chapter II of this report.

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

- 1.4.1 Adopt the appropriate measures to exclude from the powers of the DIGEIG, the function envisaged in Article 6(21) of Executive Decree 486-12 of “impos[ing] appropriate penalties if the institution in which the civil servant is employed omits to do so” (see Chapter II, Section 1.2 of this report).
- 1.4.2 Consider adopting, in accordance with its Constitution and the basic principles of its legal system, the relevant steps to give the creation of the DIGEIG the status of a law enacted by Congress, guaranteeing its technical autonomy and permanence, and extending the scope of its functions beyond the executive branch, in line with the powers that the Constitution confers to other agencies and branches of government (see section 1.2 of Chapter II of this report).
- 1.4.3 Adopt guidelines on the exercise of the function of the DIGEIG under Article 6(2) of Decree 486-12 “to investigate the actions of civil servants that violate the ethical and

disciplinary standards set down in the Civil Service Law when the authorities responsible fail to adopt corrective measures in a timely manner” (see Chapter II, Section 1.2 of this report).

- 1.4.4 Request the Executive to approve, by such means as are permitted in the Dominican legal system, the Operating Regulations of the DIGEIG contemplated in Article 11 of Decree 486-12 (see Chapter II, Section 1.2 of this report).
- 1.4.5 Adopt the operating regulations of the DIGEIG envisaged in Article 11 of Decree 486-12 (see Chapter II, Section 1.2 of this report).
- 1.4.6 Adopt the procedures manuals for the main areas of the DIGEIG and conclude the review of the DIGEIG Positions Manual (see Chapter II, Section 1.2 of this report).
- 1.4.7 Adopt the necessary mechanisms to bring into effect the coordination envisaged in Article 6(28) of Decree 486-12 with the institutions mentioned in that provision, with which the DIGEIG has not yet established such mechanisms (see Chapter II, Section 1.2 of this report).
- 1.4.8 Adopt pertinent measures, taking into account the available resources, for the DIGEIG to have the staff that it needs to perform its functions, as well as sufficient funds to provide them with specialized training (see Chapter II, Section 1.2 of this report).
- 1.4.9 Adopt appropriate measures to ensure that public-sector institutions act in a timely manner to supply the DIGEIG with the information and documents that it needs to proceed with investigations in its area of responsibility (See Chapter II, Section 1.3. of this report).
- 1.4.10 Adopt a follow-up system that enables the DIGEIG to know the outcome of the penalties that it recommends in keeping with its functions under Article 6 of Decree 486-12. The purpose of the foregoing is to identify challenges and recommend corrective measures (See Chapter II, Section 1.3. of this report).
- 1.4.11 Adopt a follow-up system that enables the DIGEIG to know the outcome of complaints of acts of corruption in public administration that it channels through the relevant authorities and of investigations submitted to the Public Prosecution Service pursuant to Article 6 (23) and (24) of Decree 486-12. The purpose of the foregoing is to identify challenges and recommend corrective measures (See Chapter II, Section 1.3. of this report).
- 1.4.12 Maintain statistics on the number of punishments recommended on the basis of investigations carried out in its area of responsibility and on the number of investigations that have concluded without penalties being recommended. The purpose of the foregoing is to identify challenges and recommend corrective measures (See Chapter II, Section 1.3. of this report).
- 1.4.13 Take appropriate steps to develop the functions of the DIGEIG under Article 6(26) of Decree 486-12 that it conduct studies on the individual and coordinated operations of organs that control the use of public resources envisaged in the Constitution and laws, present appropriate recommendations to the executive branch, and design and execute of a joint plan of action to follow up on the implementation of those

recommendations with the aim of correcting any weaknesses detected (See Chapter II, Section 1.3. of this report).

2. OFFICE OF THE SPECIAL ATTORNEY TO PROSECUTE CORRUPTION IN PUBLIC ADMINISTRATION (PEPCA)

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

[58] The Office of the Special Attorney to Prosecute Corruption in Public Administration [*Procuraduría Especializada de Persecución de la Corrupción Administrativa*] (PEPCA) has a set of provisions in its legal framework, as well as other measures that refer, inter alia, to the following:

[59] As regards its objective, according to Articles 1 and 2 of Resolution 0003 of 2013¹² of the Superior Council of the Public Prosecution Service,¹³ it is attached to the Bureau of Prosecutions of the Public Prosecution Service (*Dirección General de Persecución del Ministerio Público*),¹⁴ and it sets policy on prosecution of corruption offenses in public administration at the national level and advises prosecutors within its area of specialization.

[60] According to Article 53 of the Organizational Law of the Public Prosecution Service, special attorneys offices, such as the PEPCA, are complementary organs of the Bureau of Prosecutions of the Public Prosecution Service and under the direction, coordination, and direct supervision of the Director General of Prosecutions (DGP). They are created by the Superior Council of the Public Prosecution Service¹⁵ and have either a national or regional scope, depending on the complexity of the cases they handle, the vulnerability of victims, the public interest involved, or institutional priorities; and they are headed by attorneys general of the Court of Appeals.

[61] As regards the functions of the PEPCA, Resolution 0003 of 2013 sets out the following: 1. To set policy on prosecution of corruption offenses in public administration at the national level and to advise prosecutors within its area of specialization; 2. To coordinate the prosecution of cases with all prosecution units, imparting specific instructions corresponding to its area of specialization through the DGP or the Attorney General ; 3. Where warranted by the public interest concerned, it may assume or initiate an investigation within its area of specialization, subject to authorization from the

¹² Before the Superior Council of the Public Prosecution Service issued this resolution on February 4, 2013, there existed the Bureau of Prosecution of Corruption in Public Administration [*Dirección Nacional de Persecución de la Corrupción Administrativa*] (DEPCA), created by Decree 324 -07. As a result of that resolution, that entity became the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA). Resolution 0003 of 2013 is available at: http://www.oas.org/juridico/PDFs/mesicic4_repdom_res003.pdf

¹³ According to Article 174 of the Constitution, the Superior Council of the Public Prosecution Service is the internal governing body of the Public Prosecution Service and is chaired by the Attorney General of the Republic, who is appointed by the President of the Republic and, pursuant to Article 172 of the Constitution, heads the Public Prosecution Service, which, under Article 169 of the Constitution, “is the organ of the justice system responsible for formulating and implementing state policy against crime, directs criminal investigations, and institutes criminal action, representing society.”

¹⁴ According to Article 51 of the Organizational Law of the Public Prosecution Service (Law 133-11), the Bureau of Prosecutions of the Public Prosecution Service is headed by a director general, who is selected by the Attorney General of the Republic from the assistant attorney generals. They serve for a term of four years which may be consecutively renewed once only.

¹⁵ According to Article 47 of the Organic Law of the Public Prosecution Service, the Council's functions include approving regulations and guidelines for implementing said law.

DGP or the Attorney General of the Republic issued on the basis of a reasoned opinion; having assumed responsibility for a case, it may not refer it back to the office of the Public Prosecution Service originally in charge; 4. To coordinate supervision mechanisms relating to corruption in public administration with governmental institutions, nongovernmental organizations, and agencies of the justice system or of any other sphere; 5. To implement control mechanisms to efficiently keep a record of cases processed in its area of specialization; 6. To assist or assume the prosecution of cases or intervene in criminal acts and cases in which an act of corruption in public administration has been verified; 7. To provide specialized technical assistance and coaching to representatives of the Public Prosecution Service in the jurisdiction where individual cases are registered.

[62]The Internal Regulations (RI) on Investigation Policy and Procedures of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA),¹⁶ for their part, provide at Article 11 that its director has, inter alia, the following functions: to ensure that unity of principles and procedures are maintained (paragraph 1); to prepare and present for the information of the DGP an annual work plan (paragraph 3); to define the significance criteria of the PEPCA, by which to stipulate guidelines for selecting cases that will be handled directly by the Bureau (which could include criteria on economic, institutional, or managerial significance, or in terms of pertinence or verifiability, among others) (paragraph 4); to promote and carry out investigations *sua sponte* (paragraph 5); to order investigations into acts for which the PEPCA is responsible under items 12.3 (Annual Work Plan) and 12.4 (significance criteria) of these Internal Regulations, whether in response to a complaint or a notification, or as a result of reports submitted by the person in charge of the investigation (paragraph 6); to call on the relevant agencies to impose disciplinary measures (paragraph 15); to order an indictment to be presented to the appropriate tribunals, when there is cause to conclude from an investigation carried out or a complaint received that a criminal offense has occurred (paragraph 16); to intervene in criminal proceedings (paragraph 17); to take over the prosecution of a criminal action, whether personally or through prosecutors delegated for that purpose, replacing the prosecutor assigned to the case, where warranted (paragraph 18); to call for civil liability suits to be brought in connection with the facts under investigation (paragraph 20);¹⁷ and to promote measures for the recovery of assets connected with the facts under investigation (paragraph 21).

[63]Article 23 of the Internal Regulations provides that proceedings instituted by the PEPCA shall originate from complaints presented to it, cognizance of auditors' reports and/or complaints presented to other state agencies, ex officio action, and cognizance of a criminal proceeding. Article 25 establishes the criteria for deciding whether or not to open an investigation; Article 26 sets out the criteria for determining if the PEPCA should become a party in a criminal proceeding opened in another jurisdiction; and Article 27 defines the criteria by which the Director of the PEPCA may

¹⁶ The PEPCA informed that these regulations were not formally adopted or enacted by means of a resolution, but that the PEPCA adheres to them. The Regulations are available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_reglapecapdf

¹⁷ Under Article 50 of the Code of Criminal Procedure, “[a] civil suit may be brought either jointly with a criminal suit in accordance with the rules established by this code, or separately before a civil tribunal, in which case it would be suspended until the criminal proceedings concluded.” With regard to its filing by the Public Prosecution Service, Article 51 of the Code of Criminal Procedure contains the following provision: “Collective or diffuse interests. A civil suit may be brought by the Public Prosecution Service or a specialized nongovernmental organization when the violations concerned infringe collective or diffuse interests.” Articles 118 to 122 of the above code establish rules on the constitution of civil parties, the time limits for doing so, the requirements to be met, and the procedure to follow.

assign a case to one or more PEPCA prosecutors, reassign them, or directly takeover a case regardless of what stage it might have reached.¹⁸

[64] Article 10 of the Internal Regulations provides that the PEPCA is composed of: a director, an investigation coordinator, a litigation coordinator, a body of court attorneys general and prosecuting attorneys, judicial auditors, technical assistants to work with the PEPCA prosecutors, a registry, and administrative staff.

[65] As regards hiring, the Organizational Law of the Public Prosecution Service (Law 133-11) establishes at Article 71 the administrative career system of the Public Prosecution Service and provides that entry thereto shall be through the position of Inspector (fiscalizador) by means of a competition. Article 72 provides that the Superior Council of the Public Prosecution Service shall adopt a set of career rules for the technical and administrative staff of the Public Prosecution Service, which shall be governed by the basic principles of public administration. Article 4 of Resolution 0003 of 2013, for its part, provides that the members of the Superior Council of the Public Prosecution Service shall authorize the Chair of the Council, who is the Attorney General of the Republic, to establish its organizational chart and select the staff who comprise the PEPCA.¹⁹

[66] As regards the regime governing its staff and their training, the Organizational Law of the Public Prosecution Service (Law 133-11) recognizes general and special rights to them at Articles 73 and 74, including the right to receive periodic and specialized training under equal conditions for the performance of their duties;²⁰ Articles 78 to 82 set out their obligations, prohibitions, grounds for disqualification, and conduct constituting a conflict of interest, while Articles 84 to 100 contain the disciplinary regime that applies to them, specifying disciplinary faults, the procedure for their investigation and punishment, and the competent organs for that purpose. They are also subject to the Disciplinary Regulations of the Public Prosecution Service adopted by the Superior Council of the Public Prosecution Service and,²¹ according to Article 11(32) of the Internal Regulations, among the functions of the director of the PEPCA are to exercise disciplinary authority over the members of the PEPCA, without prejudice to the powers of the Attorney General of the Republic.

¹⁸ This article provides the following: “Criteria to be considered when assigning a case: The prosecutors’ expertise, specialty field, and workload, the seriousness and complexity of the case, any connection they might have with anyone who is under investigation or has been investigated, and any interest and part that the prosecutors (or assistant prosecutors) might have had in the early detection of the case. The same criteria shall be considered when assembling the working teams to assist the prosecutors.”

¹⁹ The response of the Dominican Republic regarding the PEPCA notes that by that authority the director of the PEPCA is appointed by the Attorney General of the Republic (p. 5) and that “the staff and technical and administrative human resources are freely appointed, and certain requirements have to be met in order to occupy the positions, as provided by Law 41-08 (Civil Service Law)” (p. 6). During the on-site visit, the PEPCA explained that, according to the provisions of the Organizational Law of the Public Prosecution Service, which establishes the Public Prosecution Service career system, certain staff of the PEPCA are career officials; however, pursuant to Resolution 003 of February 13, 2013, by which the erstwhile DPCA became the Office of the Special Attorney (PEPCA), all new administrative personnel who enter the PEPCA (basically lawyers, auditors, and secretaries) are appointed at the discretion of the Attorney General (currently 60%).

²⁰ According to the response of the Dominican Republic regarding the PEPCA, the latter's staff also receive training from the Public Prosecution Service School (*Escuela del Ministerio Público*) (p. 17).

²¹ According to the response of the Dominican Republic concerning the PEPCA (p. 6) those regulations were approved by the Superior Council of the Public Prosecution Service at its fifth meeting, held on October 18, 2011.

[67] With regard to decision-making, pursuant to the Organizational Law of the Public Prosecution Service, the Attorney General of the Republic may issue general instructions to the PEPCA on the conduct of investigations of punishable acts, the institution of criminal proceedings, and the timing thereof, or the protection of victims, witnesses, or other individuals (Article 8); and the Director General of Prosecutions (DGP) of the Public Prosecution Service may issue the PEPCA specific instructions in that connection (Article 52 [5]). The above provisions are complemented by Article 11(2) of the Internal Regulations, which, inter alia, grants the director of the PEPCA the power to issue general mandatory instructions and orders that must be obeyed by all PEPCA staff, and also states that if a prosecutor believes such instructions to be contrary to the law, they may state their reasoned opinion for the record, and that when that occurs the director shall examine the challenged instruction within 10 days in order to amend it or leave it unchanged; in the event of the latter, the prosecutor is entitled to bring their dissent to the attention of the DGP for an opinion.

[68] As to coordination of its functions with other organs and obtaining assistance from other authorities and the citizenry, Article 11 of the Internal Regulations, inter alia, grants the director of the PEPCA authority to enter into assistance and cooperation agreements with public- or private-sector agencies or entities (paragraph 25); engage in such interagency relations as may be necessary for the better functioning of the PEPCA, with other branches of government, their agencies, and areas; with the Public Prosecution Service; with civil society organizations; with public and private universities; with professional associations and private entities of any nature (paragraph 26); and to see to the establishment of coordination mechanisms with other authorities (including the judicial police or other official agencies) that could be of assistance to the PEPCA in the performance of its functions, or with any public- and private-sector institutions that could collaborate with the institution (paragraph 27).

[69] As regards the description of its functions and the existence of manuals or documented procedures for their performance, and use of technology, apart from being governed by the provisions of the Code of Criminal Procedure (Law 76-02) and having its own Internal Regulations on Investigation Policy and Procedures, the PEPCA also has an Organization and Functions Manual,²² which describes the duties of the various positions in the Office of the Attorney General and the requirements for their occupation. Internally, the PEPCA also has a procedural and case management database, which contains records on all cases, proceedings, opinions and decisions of the Director of the PEPCA and other prosecutors.²³

[70] As regards its budget, Article 2 of the Organizational Law of the Public Prosecution Service provides that the Public Prosecution Service will have its own annual appropriation in the National Budget, which it may administer with complete autonomy, without prejudice to the external controls on public spending established in the Constitution. The PEPCA is allocated an amount of the overall budget of the Office of the Attorney General.²⁴

[71] With respect to mechanisms for supplying information to the public and accountability, citizens may visit the PEPCA website (www.dpca.gob.do) to obtain information about it, including its mission, objectives, powers, and legal framework, as well as guidance on presenting complaints. Article 20 of the Internal Regulations, which concerns the Annual Report, provides that the Office of

²² In the course of the on-site visit it was mentioned that the Manual is currently being updated in line with the new provisions of the Basic Standards on Internal Control [*Normas Básicas de Control Interno*] (NOBACI) of the Office of the Comptroller General. The Manual is available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_manual.pdf

²³ Response of the Dominican Republic concerning the PEPCA, p. 18.

²⁴ Response of the Dominican Republic concerning the PEPCA, p. 20.

the Director of the PEPCA will prepare a report annually, describing the work carried out during the year just ended and including all such information as it deems pertinent and relevant, inter alia, information on: 1) The number of judicial proceedings reported to the PEPCA by other prosecution units; 2) type of interventions decided upon in each of those proceedings; 3) results of those interventions; 4) number of complaints received and investigations launched ex officio; 5) results of investigations concluded during the period, stating, where appropriate, the location of the administrative or judicial proceedings where the presentations were made; 6) obstacles or problems encountered in the conduct of investigations, and measures proposed for solving them; 7) amount of state assets recovered; 8) number of raids, seizures, or other proceedings to secure evidence, as well as the number of coercion measures requested and granted; 9) number of case closures ordered (stating the reasons); 10) number of cases dealt with in other territorial jurisdictions; 11) number of complex cases dealt with.

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

[72] The Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were briefly described in section 2.1 of this report. Nonetheless, the Committee considers it appropriate to formulate a number of observations in relation thereto:

[73] First, although the PEPCA has a set of Internal Regulations on Investigation Policy and Procedures, bearing in mind that this Special Attorney's Office of the Public Prosecution Service has stated that it adheres to those Regulations, which “were not formally adopted or enacted by means of a resolution,” the Committee will formulate a recommendation to the country under review that it consider formalizing their adoption through the appropriate legal norm issued by the competent authority of the Public Prosecution Service (see Recommendation 2.4.1 in Chapter II of this report).

[74] The Committee believes that the above would help to strengthen the PEPCA as an institution, given that, apart from containing important provisions governing its operations that it would be advisable to underpin with a provision of law, Article 6 of the Regulations provide that within 365 days following its entry into force the Office of the Director of the PEPCA is required to submit such proposed reforms as it deems necessary and relevant to the Director General of Prosecutions (DGP), who, in turn, shall refer them to the Attorney General. The Committee notes that in order to give effect to the above provision it is necessary for the competent authority to issue a legal norm adopting the Regulations, as that would provide security regarding the time of their entry into force and content.

[75] Second, although the PEPCA has the Organization and Functions Manual of the Office of the Attorney General, which describes the duties of the various positions and the requirements for their occupation, including those of the PEPCA, bearing in mind the information provided by the PEPCA during the on-site visit that the Manual needs to be updated in line with the new provisions of the Basic Standards on Internal Control [*Normas Básicas de Control Interno*] (NOBACI) of the Office of the Comptroller General, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.2 in Chapter II of this report).

[76] Third, bearing in mind that under Article 11(4) of the PEPCA's Internal Regulations on Investigation Policy and Procedures, one of the functions of its director is to define the significance criteria of the PEPCA, by which to stipulate guidelines for selecting cases that will be handled directly by the Office of the Director (which could include criteria on economic, institutional, or managerial significance, or in terms of pertinence or verifiability, among others)

and given the importance for PEPCA to have those criteria in place, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.3 in Chapter II of this report).

[77] Fourth, bearing in mind that pursuant to Article 53 of the Organizational Law of the Public Prosecution Service, specialized attorney's offices such as the PEPCA are complementary organs of the Bureau of Prosecutions of the Public Prosecution Service and are under the direction, coordination, and direct supervision of the Director General of Prosecutions (DGP), the Committee believes it is necessary for the State under review to consider adopting the relevant measures or mechanisms to ensure the PEPCA's technical, administrative, and functional independence (see recommendation 2.4.4 in Chapter II of this report).

[78] Fifth, considering that pursuant to the Organizational Law of the Public Prosecution Service (Articles 8, 9, and 52.5), resolution 0003 of 2013 (Article 2), and PEPCA's Internal Regulations on Investigation Policy and Procedures (Article 11, sections 1 and 2), the Attorney General of the Republic, the Director General of Prosecutions (DGP) and the Director of PEPCA can issue instructions to PEPCA's prosecutors, the Committee believes it is necessary for the State under review to consider adopting the relevant measures or mechanisms to ensure the technical, administrative, and functional independence of PEPCA's prosecutors (see recommendation 2.4.5 in Chapter II of this report).

[79] Sixth, bearing in mind that, according to information provided by the PEPCA during the on-site visit, a more expedited procedure is needed for recovering assets associated with acts of corruption, and considering, moreover, that this would assist the Director of the PEPCA in performing the function accorded them in Article 11(21) of the Internal Regulations to "promote measures for the recovery of assets connected with the facts under investigation," the Committee will formulate a recommendation to the country under review in that connection (see Recommendation 2.4.6 in Chapter II of this report).

[80] Connected with the foregoing, it should be noted that during the on-site visit the PEPCA also furnished information about the use by the Public Prosecution Service of the procedure envisaged for being a party in civil proceedings under Articles 50, 51, and 118-122 of the Code of Criminal Procedure, and about the existence of a proposed law on forfeiture of assets that includes corruption cases.

[81] Seventh, bearing in mind that Article 72 of the Organizational Law of the Office of the Attorney General (Law 133-11) requires the Superior Council of the Public Prosecution Service to adopt a set of career rules for the technical and administrative staff of the Public Prosecution Service, which shall be governed by the basic principles of public administration, and given the importance of those regulations for the recruitment and retention of that staff, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.7 in Chapter II of this report).

[82] Eighth, in its response to the questionnaire,²⁵ the country under review mentioned with regard to the PEPCA that "the staff and technical and administrative human resources are freely appointed," and that subsequently, during the on-site visit, the PEPCA explained that, according to the provisions of the Organizational Law of the Public Prosecution Service, which establishes the Public Prosecution Service career system, certain staff of the PEPCA are career officials, but that, pursuant to Resolution 003 of February 13, 2013, all new administrative personnel who enter the PEPCA

²⁵ Response of the Dominican Republic concerning the PEPCA, p. 6.

(basically lawyers, auditors, and secretaries) are appointed at the discretion of the Attorney General (currently 60%).

[83] With regard to the foregoing, the Committee believes that, although Article 4 of Resolution 003 of February 13, 2013, provides that the members of the Superior Council of the Public Prosecution Service authorize the Chair of the Council, who is the Attorney General of the Republic, to select the staff of the PEPCA, Article 72 of the Organizational Law of the Public Prosecution Service, which prevails over this provision, recognizes the technical and administrative staff of the Public Prosecution Service as career employees, given that it mandates the Superior Council of the Public Prosecution Service to establish a set of career regulations for them. In light of the foregoing and considering, moreover, that it would be advantageous for the PEPCA's technical and administrative staff to be selected through a system of merit, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.8 in Chapter II of this report).²⁶

[84] Ninth, bearing in mind that the response of the country under review to the questionnaire regarding the PEPCA,²⁷ mentions in the section on obstacles to fulfilling its purposes "the need for a greater number of prosecutors and investigators to cope with the heavy caseload, so as to be able to offer society quicker responses," the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.9 in Chapter II of this report).

[85] It should be noted with respect to the foregoing that during the on-site visit the PEPCA informed of the recent addition of two new prosecutors, taking the total number of prosecutors in the PEPCA to eight. Nonetheless, it reiterated the need for a greater number of prosecutors and investigators that it mentioned in the response to the questionnaire.

[86] It should also be noted with respect to the foregoing that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, said, referring to the PEPCA, inter alia, that "this vital institution lacks the support that it needs to carry out its functions and responsibilities properly, as evinced by the budget appropriations assigned, the dearth of specialized staff, and the poorly equipped offices, all of which is reflected in a slow response in investigations."

[87] Tenth, taking into account that the response of the country under review to the questionnaire regarding the PEPCA,²⁸ mentions in the section on obstacles to fulfilling its purposes that "it would be appropriate to strengthen training mechanisms for specialized staff (prosecutors, investigators, and technical and administrative personnel) for example, in the areas of recovery of assets proceeding from acts of corruption," the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 2.4.10 in Chapter II of this report).

[88] It is worth noting in connection with the foregoing that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, said, referring to the PEPCA, inter alia, that "the Public Prosecution Service School (ENMP) should include specialized training for members of the Office of the Special Attorney to Prosecute Corruption in Public Administration, in view of the fact that its staff have not received any refresher training through the

²⁶ This report analyzes the cited provisions for the selection of PEPCA's personnel, due to the fact that during the Second Round, in addressing the regime for the hiring of public servants, this agency was not analyzed, considering that it was created as the Office of the Special Attorney to Prosecute Corruption in Public Administration by means of Resolution No. 003 of February 13, 2013.

²⁷ Response of the Dominican Republic concerning the PEPCA, p. 24.

²⁸ Response of the Dominican Republic concerning the PEPCA, p. 24.

EMP in recent years; they have only received sporadic training thanks to support from international agencies.”

[89] Eleventh, considering the fact that during the on-site visit the PEPCA mentioned the low pay received by prosecutors as an obstacle, the Committee will formulate a recommendation to the country under review (see Recommendation 2.4.11 in Chapter II of this report).

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

[90] Information was gathered regarding the results achieved by the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA), of which the following is highlighted:

[91] First, in its response to the questionnaire²⁹ the country under review provided information about a publicity campaign carried out in 2009 to promote a complaints hotline and about a Project to Relaunch the Education Unit of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA). During the on-site visit it was explained that the functions of the PEPCA now focus on prosecution, not prevention, as it used to do; however, they said that they were currently giving particular attention to the above project, which they regard as highly important and through which, as was mentioned in the aforesaid response, the aim is to accelerate the launch of the new PEPCA in keeping with the resolution that declared it a Special Attorney's Office, “given the special importance of the issue of corruption in public administration in the eyes of all Dominican society, the aim being to reach all social segments, in particular civil servants, university students, and secondary school students with talks on the issue of corruption and, likewise, to create stronger and closer links with the institutions visited.”

[92] With regard to the foregoing, given the importance for the PEPCA of being able to carry out the above project, the Committee will formulate a recommendation to the country under review that it consider adopting the appropriate measures to ensure its implementation (see Recommendation 2.4.12 in Chapter II of this report).

[93] Second, in its response to the questionnaire,³⁰ the country under review provided the following information regarding the investigation functions of the PEPCA:

[94] “Since 2009, 90 proceedings have been instituted. These proceedings are at different stages, from evaluation of admissibility of the complaint to the final phase of the investigation.- Between March 2009 and December 2012, 48 investigations opened by the Office of the Special Attorney to Prosecute Corruption in Public Administration were set aside; 15 cases were provisionally closed and 33 definitively so. To date, two cases have been definitively declared time-barred because the statute of limitations has run. At present, the Office of the Special Attorney to Prosecute Corruption in Public Administration is prosecuting 15 cases in different tribunals of the Dominican Republic, where they are pending a decision.- Over this two-year period the courts have issued decisions in 20 cases, 17 of which have led to an indictment or punishment, one ended in an acquittal, and two have prescribed.

[95] With regard to the foregoing information, bearing in mind that it mentions that two cases have been declared prescribed, the Committee will formulate a recommendation to the country under review that it consider examining the causes that might have contributed to this, with a view to identifying challenges and recommending corrective measures (see Recommendation 2.4.13 in Chapter II of this report).

²⁹ Response of the Dominican Republic concerning the PEPCA, pp. 22 and 23.

³⁰ Response of the Dominican Republic concerning the PEPCA, pp. 23 and 24.

[96] Third, in its response to the questionnaire,³¹ the country under review supplied the following information regarding the recovery of assets connected with acts of corruption:

[97] In that connection, decisions have been returned that envisage restitution for damages to the state through claims by state entities, including the Central Bank and the Superintendency of Banks. The decisions in this regard have come in the context of corruption cases in the private sphere involving large-scale bank fraud. The amounts recognized by the courts run into the millions, subject to settlement.”

[98] With respect to the foregoing, bearing in mind that during the on-site visit the PEPCA informed that it did not know the exact amounts of what had been recovered and placed in the Government coffers where the recovery of assets connected with acts investigated by the PEPCA were concerned, the Committee will formulate a recommendation to the country under review to the effect that it consider adopting a monitoring mechanism that would enable it to know such information (see Recommendation 2.4.14 in Chapter II of this report).

[99] Fourth, in its response to the questionnaire,³² the country under review provided the following information with respect to mechanisms for providing information to the public:

[100] “It is important to underscore that in August 2012 a management report entitled “Systematization of Cases 2004 - 2012” was drafted and circulated with the support of the Technical Cooperation Facility Program (TCF) through the Bureau for Multilateral Cooperation (DIGECOOM). This report is also available on our website and provides members of the public with information on the Legal Framework of the Anticorruption Policy in the Dominican Republic; principal actions taken by the Department for Prevention of Corruption in Public Administration (DPCA), now the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA); systematization of cases and investigations carried out; Progress and Achievements of the DPCA in 2004-2012.”

[101] With regard to the foregoing, although it recognizes the benefit to the public of having access to the information contained in the management report entitled “Systematization of Cases 2004-2012,” which is publicly available on the PEPCA website, the Committee believes that it would also be useful for the purposes of disseminating its activities and results and to enable their appreciation by the public, to publish the annual report that the PEPCA management is required to prepare each year in accordance with Article 20 of its Internal Regulations on Investigation Policy and Procedures on the website, given that it describes the work done in the year just ended. In light of the above, the Committee will formulate a recommendation to that effect to the country under review (see Recommendation 2.4.15 in Chapter II of this report).

2.4. Conclusions and recommendations

[102] Based on the comprehensive analysis of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) set forth above, the Committee offers the following conclusions and recommendations:

[103] The Dominican Republic has considered and adopted measures intended to maintain and strengthen the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) as an oversight body, as indicated in Chapter II, Section 2 of this report.

³¹ Response of the Dominican Republic concerning the PEPCA, p. 24.

³² Response of the Dominican Republic concerning the PEPCA, pp. 18 and 19.

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

- 2.4.1 Formalize the adoption of the PEPCA's Internal Regulations on Investigation Policy and Procedures, through a legal norm issued by the competent authority of the Public Prosecution Service for that purpose (see Chapter II, Section 2.2 of this report).
- 2.4.2 Update the Organization and Functions Manual of the Office of the Attorney General, which describes the duties of the various positions and the requirements for their occupation, including those of the PEPCA, in line with the new provisions of the Basic Standards on Internal Control [*Normas Básicas de Control Interno*] (NOBACI) of the Office of the Comptroller General (see Chapter II, Section 2.2 of this report).
- 2.4.3 Define the significance criteria of the PEPCA, by which to stipulate guidelines for selecting cases that will be handled directly by the Office of the Director of the PEPCA, in accordance with Article 11(4) of its Internal Regulations (see Chapter II, Section 2.2 of this report).
- 2.4.4 Adopt the relevant measures or mechanisms to ensure PEPCA's technical, administrative, and functional independence (see section 2.2 of Chapter II of this report).
- 2.4.5 Adopt the relevant measures or mechanisms to ensure the technical, administrative, and functional independence of PEPCA's prosecutors (see section 2.2 of Chapter II of this report).
- 2.4.6 Adopt a more expedited procedure for recovering assets associated with acts of corruption in order to assist the Director of the PEPCA in performing the function accorded them in Article 11(20) of the Internal Regulations to "promote measures for the recovery of assets connected with the facts under investigation," (see Chapter II, Section 2.2 of this report).
- 2.4.7 Adopt, by the Superior Council of the Public Prosecution Service, a set of career rules for the technical and administrative staff of the Public Prosecution Service, which shall be governed by the basic principles of public administration, in accordance with Article 72 of the Organizational Law of the Public Prosecution Service (see Chapter II, Section 2.2 of this report).
- 2.4.8 Select the technical and administrative staff of the PEPCA based on a system of merit (see Chapter II, Section 2.2 of this report).
- 2.4.9 Adopt pertinent measures, taking into account the available budgetary resources, for the PEPCA to have sufficient prosecutors and investigators to perform its functions (see Chapter II, Section 2.2 of this report).
- 2.4.10 Adopt pertinent measures to strengthen training mechanisms for the specialized staff of the PEPCA (prosecutors, investigators, and technical and administrative personnel) in the areas specific to their duties, such as recovery of assets proceeding from acts of corruption (see Chapter II, Section 2.2 of this report).

- 2.4.11 Adopt pertinent measures, taking into account the available resources, for PEPCA prosecutors to be paid an adequate wage (see Chapter II, Section 2.2 of this report).
- 2.4.12 Take the appropriate steps to ensure implementation of the Project to Relaunch the Education Unit of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) (see Chapter II, Section 2.3 of this report).
- 2.4.13 Examine the causes that might have contributed to acts of corruption under investigation by the PEPCA being declared time-barred for legal action, with a view to identifying challenges and recommending corrective measures (see Chapter II, Section 2.3 of this report).
- 2.4.14 Adopt a monitoring system that would enable the PEPCA to know the amounts of what has been recovered and placed in the Government coffers as a result of steps taken to recover assets connected with acts investigated by the PEPCA, with a view to identifying challenges and recommending corrective measures (see Chapter II, Section 2.3 of this report).
- 2.4.15 Publish the Annual Report that the PEPCA management is required to prepare in accordance with Article 20 of its Internal Regulations on the PEPCA website (see Chapter II, Section 2.3 of this report).

3. JUDICIAL BRANCH (PJ)

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

[105] 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:

[106] - The judicial branch (PJ), which, according to Article 149 of the Constitution, administers justice in the name of the Republic and enjoys operational, administrative and financial autonomy. This power is exercised by the Supreme Court of Justice and the other tribunals created by the country's Constitution and laws.

[107] According to Article 152 of the Constitution, the Supreme Court of Justice is the highest court among all judicial agencies. It is composed of at least 16 justices and may validly convene, deliberate, and issue rulings with the statutory quorum as determined by its organizational law. It is organized into divisions, in accordance with the law, and prospective Supreme Court justices are required to meet the requirements set forth in Article 153 of the Constitution.

[108] According to Article 179 of the Constitution, Supreme Court justices are appointed by the National Council of the Magistracy (*Consejo Nacional de la Magistratura*),³³ which, pursuant to Article 180 of the Constitution, on appointing the Supreme Court of Justice, shall select three

³³ Under Article 178 of the Constitution, the National Council of the Magistracy is composed of: 1) The President of the Republic, who chairs it, or, in their absence, the Vice President of the Republic; 2) the Speaker of the Senate; 3) a Senator selected by the Senate belonging to a party or coalition of parties different from that of the Speaker of the Senate and who represents the second-largest majority; 4) The Speaker of the House of Deputies; 5) a deputy selected by the House of Deputies belonging to a party or coalition of parties different from that of the Speaker of the House of Deputies and who represents the second-largest majority; 6) the President of the Supreme Court of Justice; 7) a justice of the Supreme Court of Justice chosen by the Supreme Court itself, who will serve as secretary; 8) the Attorney General of the Republic.

quarters of its members from judges who belong to the judicial career system; it shall select the remaining quarter among legal professionals, scholars, or members of the Public Prosecution Service.

[109] According to article 154 of the Constitution, the Supreme Court of Justice has the following functions: 1. To hear at sole instance criminal lawsuits brought against the President and Vice President of the Republic, senators, deputies, and judges of the Supreme Court of Justice, the Constitutional Court, government ministers and vice ministers, the Attorney General of the Republic, judges and attorney generals of courts of appeal or their equivalent, judges of superior land courts, judges of superior administrative tribunals and the Superior Electoral Tribunal, the Ombudsman, members of the diplomatic corps and heads of mission accredited abroad, and members of the Central Elections Authority, the Court of Accounts, and the Monetary Board; 2) to hear motions for cassation in accordance with the law; 3) to hear, as the court of last resort, actions whose hearing at first instance belongs to the jurisdiction of courts of appeal or their equivalent; 4) to appoint, in accordance with the Judicial Career Law, judges of courts of appeal or their equivalent, judges of courts of first instance or their equivalent, examining magistrates' courts or their equivalent, justices of the peace and their alternates, and judges of any other tribunal of the judicial branch created by the country's Constitution and laws.

[110] According to Article 156 of the Constitution, the Judiciary Council [*Consejo del Poder Judicial*] (CPJ) is the permanent administrative and disciplinary organ of the judiciary and has the following functions: 1) to present to the plenary of the Supreme Court of Justice candidates for appointment, determination of seniority, and promotion of judges in different courts of the judiciary in accordance with the law; 2) administration of the judiciary's finances and budget; 3) disciplinary oversight of judges, officials, and employees of the judiciary except for members of the Supreme Court of Justice; 4) apply and implement performance evaluation instruments for judges and administrative staff in the judiciary; 5) the transfer of judges in the judiciary; 6) the creation of administrative positions in the judiciary; 7) appointment of all officials and employees of the judiciary; 8) such other functions as the law accords it.

[111] According to Article 155 of the Constitution, the CPJ is composed of: 1) The President of the Supreme Court of Justice, who chairs it; a justice of the Supreme Court of Justice, elected by its full membership; 3) a judge of a court of appeal or its equivalent, elected by their peers; 4) a judge of a court of first instance or its equivalent, elected by their peers; 5) a justice of the peace or their equivalent, elected by their peers.

[112] Article 157 of the Constitution provides that there shall be as many courts of appeal and their equivalent, as the law determines. The same provision also establishes the number of judges that shall comprise such courts and their territorial jurisdiction. To be appointed a judge of a court of appeal requires meeting the requirements set forth in Article 158 of the Constitution. Under Article 159 of the Constitution, courts of appeal shall have the following powers 1) to hear appeals against sentences in accordance with the law; 2) to hear as the court of first instance criminal suits filed against judges of first instance or their equivalent, government prosecutors, heads of autonomous and decentralized state organs and agencies, provincial governors, and mayors of the National District and municipalities; 3) to take cognizance of such other matters as the laws determine.

[113] Article 160 of the Constitution provides that there shall be as many courts of first instance or their equivalent, with the number of judges and territorial jurisdiction, that the law determines, and that to be a judge of first instance requires meeting the requirements set forth in Article 161 of the Constitution. Furthermore, according to Article 162 of the Constitution, the law shall determine the number of justice of the peace courts or their equivalent, their powers, territorial jurisdiction, and

their manner of organization, and that to be a justice of the peace requires meeting the requirements set forth in Article 163 of the Constitution.

[114] The organization and functioning of the Supreme Court of Justice are governed by its Organizational Law (Law 25-91). The Judiciary Council has its own Organizational Law (Law 28-11), which governs its organization and the exercise of its powers as the permanent administrative and disciplinary organ of the judiciary pursuant to Article 156 of the Constitution.

[115] With regard to criminal law, the judiciary relies on the Code of Criminal Procedure (CPP) (Law 76-02),³⁴ Article 57 of which provides that the criminal courts have exclusive and universal jurisdiction over the cognizance of and decisions on all punishable acts and omissions under the Criminal Code;³⁵ Article 48 provides that the maximum length of any proceeding is three years counted from the start of the investigation;³⁶ Article 370 provides that the time limit is four years where a complex case is concerned;³⁷ Articles 259 to 353 sets out the regular procedure; Book II envisages special procedures, including the procedure for complex cases (Articles 369 to 373) and the procedure to be used by the Supreme Court of Justice and courts of appeal for accused individuals with privileged jurisdiction by reason of their office (Articles 377 to 380); and Book III sets out remedies, including those for appealing judgments (Articles 416 to 424), cassation (Articles 425 to 427),³⁸ and review (Articles 428 to 435).

[116] As regards hiring of judges and judiciary employees, the rules that govern them, and their training, Article 159 of the Constitution provides that to be appointed a judge in the judiciary all applicants must sit an open competitive examination of merits organized through the entrance system of the National Judicature School [*Escuela Nacional de la Judicatura*] (ENJ)³⁹ established by the law

³⁴ Available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_codpp.pdf

³⁵ During the on-site visit, representatives of the judiciary mentioned that there is no special jurisdiction for criminal prosecution of corruption cases, and therefore, such cases are tried by regular judges and tribunals with jurisdiction over criminal matters, as established in the Code of Criminal Procedure.

³⁶ During the on-site visit it was mentioned that Supreme Court resolution 2802-2009 provided that a criminal action is extinguished because the time limit for the proceeding has passed only when the activity in the case has proceeded without reiterated filings by the accused of incidental motions and requests designed to delay the preparatory or trial phases. Accordingly, it is up to the court dealing with each case to evaluate the actions of the accused. This resolution is available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_res2802.pdf

³⁷ Article 369 of the Code of Criminal Procedure establishes that when a case is complex to process because of the large quantity of facts, a large number of accused or victims, or the case involves organized crime, at the request of the office of the Public Prosecution Service bringing the charges before the indictment is filed, the judge may authorize, by means of a ruling stating cause, the application of the special rules contained in Title IV regarding the procedure for complex cases.

³⁸ Article 425 of the Code of Criminal Procedure provides that cassation is admissible against judgments of courts of appeal and decisions that bring an end to proceedings or that deny the extinction or suspension of a sentence; Article 426 of the Code of Criminal Procedure provides that a cassation remedy is only appropriate in the event of a failure to apply or the misapplication of legal or constitutional provisions, or those contained in international human rights treaties in the instances expressly stated therein.

³⁹ During the on-site visit, representatives of the ENJ said that specific training on cases of corruption was not imparted as it was understood that such cases concern the offenses classified in the Dominican Criminal Code at Articles 166, 167, 169-172, and 405. However, training is given on topics such as expediting proceedings, which has an impact in prosecuting corruption cases. Furthermore, with regard to criminal matters, a special criminal course was designed that covers such areas as extortion, blackmail, money-laundering, monetary and financial law, and tax and import tariff offenses, among other crimes that

for that purpose and have satisfactorily completed and passed the School's training program. Only members of the Supreme Court of Justice who are appointed at discretion are exempt from these requirements. This provision also states that judges who form part of the judiciary are independent, impartial, responsible, irremovable, and subject to the Constitution and laws, and that they may not be removed, separated, suspended, transferred, or retired except for cause and with the guarantees envisaged by the law. It also provides that service in the judiciary is incompatible with any other public or private duties, except teaching, and that its members may not stand for elected public office or participate in any party-political activity.

[117] As regards the members of the Supreme Court of justice, Article 83 of the Constitution provides that the House of Deputies may file articles of impeachment against a judge who commits serious faults in the exercise of their duties before the Senate, while Article 154 of the Constitution provides that the Supreme Court of Justice shall hear at sole instance criminal actions brought against such judges. Article 156 of the Constitution accords disciplinary control over all judges, officials, and employees of the judiciary, except for members of the Supreme Court, to the Judiciary Council.

[118] The Judicial Career Law (Law 327-98) governs entry to the career and the disciplinary regime that applies to judges in the judiciary, while the Implementing Regulations of the Judicial Administrative Career Law, approved by Supreme Court resolution 3471-2008, govern entry to the career and the disciplinary regime that applies to judiciary administrative staff. There is also a Judiciary Code of Ethical Conduct, adopted by the Supreme Court of Justice.

[119] As regards adoption of decisions, according to Article 150(III) of the Constitution, the decisions of each tribunal are independent and sovereign, and are issued through judgments. There is a hierarchy of tribunals, with the Supreme Court of justice at the top, followed by courts of appeal and their equivalents, courts of first instance and their equivalents, and justice of the peace courts and their equivalents. Courts are both collegiate and consist of a single judge. The following are collegiate: The Supreme Court, courts of appeal and their equivalents, and collegiate courts of first instance for criminal matters. The following comprise a single judge: Courts of first instance and their equivalents, and justice of the peace courts and their equivalents.⁴⁰ According to Article 1 (I) of Law 25-91, as amended by Law 242-11, when the full Supreme Court meets in session, at least twelve (12) justices must be present to constitute a quorum and decisions shall be adopted by a majority of votes.

[120] As to coordination of its functions with other organs and obtaining assistance from other authorities and the citizenry, the judiciary has a number of agreements in place, including an interagency agreement between the National Council on Drugs, the Judiciary Council, the Public Prosecution Service, the Ministry of Health, and the Ombudsman; and an interagency cooperation agreement between the Supreme Court of Justice, the Office of the Attorney General of the Republic,

directly or indirectly address the issue of corruption. They later provided additional information on that training, which may be consulted via the following links:

http://www.oas.org/juridico/pdfs/mesicic4_repdm_dis.pdf
http://www.oas.org/juridico/pdfs/mesicic4_repdm_esta.pdf
http://www.oas.org/juridico/pdfs/mesicic4_repdm_libro.pdf
http://www.oas.org/juridico/xls/mesicic4_repdm_rep12.xls
http://www.oas.org/juridico/xls/mesicic4_repdm_rep13.xls

⁴⁰ Response of the Dominican Republic concerning the judiciary, p. 5.

the National Police, and the Public Defenders' Office.⁴¹ In addition, "outreach workshops" (*jornadas de acercamiento*) have been held, where judges interact with civil society organizations and members of the public. In this regard, we can cite the example of the project Justice and Society (*Justicia y Sociedad*), which has the following objectives: to strengthen relations between the judiciary and the citizenry; inform the public about the judiciary and what it does; build bridges between judicial officials and the citizenry; encourage opportunities for exchange, communication, information, and education between the public and the judiciary; and improve attention to users of justice services.⁴²

[121] In terms of descriptions of functions, the existence of manuals or documented procedures for their performance, and the use of technology, the judiciary has 28 procedure manuals organized under eight areas of management: Human Capital, Administrative-Financial Management, Internal Control, Planning and Development, Information and Communications, General Services and Maintenance, Administrative-Judicial Management, and Technology. There is also a "Positions Manual," which is used for personnel recruitment and selection, preparation of technical exams, promotions, transfers, and staff induction, among other processes. The judiciary also has management technology systems, including the following: *Supremo Plus*, a case management system used to keep a record of cases and the various proceedings pertaining to them, enabling the electronic management of proceedings in cases before the criminal courts; *Exactus*, a business resource planning system used for administrative-financial and human resources management; *Dominium*, a system that tracks the flow of the various documents generated in the judicial branch; and *Automatiza civil*, a case management system used to keep a record of cases and the various procedures pertaining to them, enabling the electronic management of proceedings in civil cases.⁴³

[122] In terms of its budget, Article 149 of the Constitution provides that the judiciary enjoys budgetary autonomy and that under Law 46-97, as amended by Law 194-04, the combined budget of the judiciary and the Public Prosecution Service shall be at least 4.10% of internal revenue, including additional revenues and surcharges established in the Budget of Estimated Revenue and the Public Spending Law, to be distributed as follows: 65% of the 4.10% to the judiciary and 35% to the Public Prosecution Service.

[123] As regards institutional strengthening, the judiciary's Strategic Plan 2009-2013 includes lines of action that envisaged the following: 3.1 Ongoing training for judges; 6.1 Expansion of the criminal court office management model [*Modelo de Gestión del Despacho Judicial Penal*] (MGDP) into new areas and jurisdictions; 6.2. Increasing the efficiency of court proceedings and their management processes; 6.4 Legislative drafting, proposed laws, regulatory approval, and repeal of obsolete standards; 6.5 Systematization, creation, and dissemination of jurisprudence and judicial documents; 7.4. Improving the judicial statistics system. There is also the so-called "Hearings Audio Capture" (*Captura de Audio de las Audiencias*) project, which is described under the Modernization Projects section on the judiciary's website.

[124] Regarding accountability and the way citizens are kept informed, the judiciary has various channels for disseminating its procedures, functions, and services, including its website (

⁴¹These agreements are available at: http://www.oas.org/juridico/spanish/mesicic4_reptom.htm (section on the judiciary)

⁴² Response of the Dominican Republic concerning the judiciary, p. 17.

⁴³ Response of the Dominican Republic concerning the judiciary, p. 17.

<http://www.poderjudicial.gob.do>), the Office of Public Information (OAI), Citizen Guidance and Information Centers (CIOCI), the Dominican Judicial Documents and Information Center (CENDIJD), and its e-mail address: idei@ideibo.org.do. In addition, users may contact the Judicial Career Bureau directly by telephone, in person, or by e-mail (dcj@suprema.gov.do and usc@suprema.gov.do), as well as via the website www.poderjudicial.gob.do.⁴⁴ Every Judiciary Day, which falls on January 7, the President of the Supreme Court and of the Judiciary Council holds a solemn assembly and gives an address to the nation to report on the work done over the past year. The address is accompanied by a publication summarizing the activities, projects and accomplishments in the jurisdictional and administrative spheres.⁴⁵ The judiciary's annual reports, statistics bulletins, and important Supreme Court decisions are published on its website.

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

[125] The judiciary has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described in brief in section 3.1 of this report. Nonetheless, the Committee considers it appropriate to formulate a number of observations in relation thereto:

[126] First, taking into account that, according to information provided by the judiciary during the on-site visit, it is only receiving approximately half the amount that it should be allocated for its operating budget pursuant to Law 46-97, as amended by Law 194-04 and that, according to the response of the country under review to the questionnaire,⁴⁶ this poses an obstacle to its operations, the Committee will formulate a recommendation in that respect (see Recommendation 3.4.1 in Chapter II of this report).

[127] Second, bearing in mind that, according to the response of the country under review to the questionnaire,⁴⁷ "budgetary constraints have prevented the judiciary from putting into operation the courts and structures established in the law, especially in the criminal sphere, which have been created to detect and punish corruption," the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 3.4.2 in Chapter II of this report).

[128] In relation to the above, it is worth noting that in response to a request made during the on-site visit, the judiciary has supplied a list of the criminal tribunals and courts that have been created by law but which, owing to budgetary limitations, it is not been possible to put into operation. The list is available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_tribu.pdf

[129] Third, bearing in mind the importance for the modernization of the country's criminal justice system of the "Hearings Audio Capture" project, the implementation status of which, according to information furnished during the on-site visit, is only 15% due to budgetary constraints, the Committee will formulate a recommendation to the country under review that it consider adopting the necessary measures to ensure its implementation (see Recommendation 3.4.3 in Chapter II of this report).

[130] Regarding the foregoing, it should be noted that in response to a request made during the on-site visit, the judiciary has provided a list of the criminal courts that have been equipped with audio capture systems (of which there are 23) and those where the installation of those systems is pending (132). The list is available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_rela.pdf

⁴⁴ Response of the Dominican Republic concerning the judiciary, pp. 14 and 15.

⁴⁵ Response of the Dominican Republic concerning the judiciary, pp. 17 and 18.

⁴⁶ Response of the Dominican Republic concerning the judiciary, p. 25.

⁴⁷ Response of the Dominican Republic concerning the judiciary, p. 25.

[131] Fourth, bearing in mind the importance for the country's criminal justice system of the territorial expansion of the criminal court office management model (MGDP), one of the lines of action in the Strategic Plan 2009-2013, and that, according to information furnished during the on-site visit, the implementation status of the model is only 31% in terms of geographic coverage due to budgetary constraints, the Committee will formulate a recommendation to the country under review that it consider adopting the necessary measures to ensure its implementation and (see Recommendation 3.4.4 in Chapter II of this report).

[132] With respect to the foregoing, it should be noted that in response to a request made during the on-site visit, the judiciary provided detailed information on the implementation of the MGDP in the country's various judicial districts, which is available for consultation at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_por.pdf

[133] Fifth, bearing in mind the importance for the country's criminal justice system of the "systematization, creation, and dissemination of jurisprudence and judicial documents," which is envisaged as a line of action in the Strategic Plan 2009-2013 and, according to information provided during the on-site visit, though progressing with regard to civil matters, has yet to commence in the criminal justice area, the Committee will formulate a recommendation to the country under review that it consider implementing this line of action in the criminal jurisdiction, particularly where corruption is concerned (see Recommendation 3.4.5 in Chapter II of this report).

[134] Sixth, the Committee notes that, according to information provided during the on-site visit, while the National Judicature School (ENJ) has imparted training to judges on topics such as expediting proceedings, which has an impact in prosecuting corruption cases, and that, with regard to criminal matters, a special criminal course was designed that covers such areas as extortion, blackmail, money laundering, monetary and financial law, and tax and import tariff offenses, among other crimes that directly or indirectly address the issue of corruption, specific training on cases of corruption has not been imparted as it is understood that such cases concern the offenses classified at Articles 166, 167, 169-172, and 405 of the Dominican Criminal Code. Accordingly, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 3.4.6 in Chapter II of this report).

[135] Seventh, bearing in mind that during the on-site visit the judiciary reported the low salaries paid to judges as an obstacle, the Committee will formulate a recommendation to the country under review in that connection (see Recommendation 3.4.7 in Chapter II of this report).

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

[136] Information was gathered regarding the results achieved by the judiciary, of which the following is highlighted:

[137] First, regarding the Supreme Court of justice, in response to a request made during the on-site visit, the following information was provided on cases dealt with at sole instance in the last five years, corresponding to criminal actions brought against the senior officials in mentioned in Article 154(1) of the Constitution:

Years	Privileged jurisdiction	
	Filed	Decided
2007	12	9

2008	19	16
2009	6	3
2010	23	0
2011	13	2
2012	10	1
Total	83	31

[138] With respect to the above information, the Committee finds that although it serves to show that the Supreme Court has processed and issued rulings on cases at sole instance against the senior officials mentioned in Article 154 (1) of the Constitution, it is not disaggregated in a way that enables a determination of how many cases are ongoing, suspended, prescribed, set aside without a decision adopted, ready for a decision on merits, or on which a decision on merits has been adopted, either to acquit or convict. In light of the foregoing, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 3.4.8 in Chapter II of this report).

[139] Second, in response to a request made during the on-site visit, the judiciary provided information on “cases of corruption in public administration - cases appealed in cassation before the Supreme Court” in reference to “offenses envisaged and punished by Articles 166, 167, 169, 170-172, and 405 of the Criminal Code, and 102 of the Dominican Constitution.” The information lists 10 cases, and in nine the cassation appeal was denied in one it was accepted, with “the challenged decision being partially vacated and a new examination of the case with regard to prescription of the action being ordered.”⁴⁸

[140] The Committee finds that the above information serves to show that the Supreme Court has exercised its power under Article 154(2) of the Constitution regarding the examination of cassation appeals, with the above-noted results.

[141] Third, given that no information was provided on corruption cases taken up by the Supreme Court in the last five years pursuant to its function under Article 154(3) of the Constitution of “hear[ing], as the court of last resort, actions whose hearing at first instance belongs to the jurisdiction of courts of appeal or their equivalent,” the Committee will formulate a recommendation in that regard to the country under review (see Recommendation 3.4.9 in Chapter II of this report).

[142] Fourth, in response to a request made during the on-site visit, the judiciary supplied information on the “privileged jurisdiction” cases heard by the three chambers of the Criminal Division of the Court of Appeals of the National District between 2008 and October 2013, listing 23 cases without indicating the sense of the decision adopted.⁴⁹ The judiciary also provided the same information corresponding to the Criminal Division of the Court of Appeals of Santo Domingo for the period 2007 to October 2013, listing 30 cases and indicating the sense of the decision adopted.⁵⁰

⁴⁸ This information may be consulted at the following link:
http://www.oas.org/juridico/pdfs/mesicic4_repdom_casos1.pdf

⁴⁹ This information may be consulted at the following link:
http://www.oas.org/juridico/pdfs/mesicic4_repdom_casos2.pdf

⁵⁰ This information may be consulted at the following link:
http://www.oas.org/juridico/pdfs/mesicic4_repdom_casos4.pdf

[143] With respect to the above information, the Committee finds that although it serves to show that the two Criminal Divisions of the Courts of Appeals to which they correspond have processed and issued rulings on cases in the “privileged jurisdiction,” it is not disaggregated in a way that enables a determination of how many cases are ongoing, suspended, prescribed, set aside without a decision adopted, or ready for a decision on merits. Furthermore, with regard to cases in which a decision on merits has been adopted, there is no indication with respect to one of those divisions if the decisions were to acquit or to convict. Moreover, no information has been provided for the criminal divisions of the country's other courts of appeals. In light of the foregoing, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 3.4.10 in Chapter II of this report).

[144] Fifth, given that no information was provided on corruption cases heard by courts other than the Supreme Court, or by courts of appeal other than the ones mentioned, such as courts of first instance and their equivalents, the Committee will formulate a recommendation in that regard to the country under review (see Recommendation 3.4.11 in Chapter II of this report).

[145] Sixth, with regard to the results of the Judiciary Council, in its response to the questionnaire⁵¹ the country under review provided the following information:

[146] “The judiciary has been busy disseminating the Institutional Integrity System with the aim of instilling in the members of the judiciary the importance of ethical conduct and how that conduct should be displayed in the service that the institution provides to society: We have sensitized a total of 5,508 administrative employees and 614 judges in the country's various judicial departments; 5,000 copies of the Code of Ethical Conduct were distributed among judicial officials nationwide; a total of 5,000 copies of a booklet containing the values and principles established in the Code of Ethical Conduct were distributed. In a bid to continue to foster professional conduct by which to ensure a quality service through behavior that reflects the institution's ethical values and principles, a workshop on the Code of Ethical Conduct was designed and held for a total of 4,993 judicial officials nationwide.”

[147] “Last year, the Judiciary Council received a total of 117 complaints from users of the system, 70 of which were definitively set aside, 22 were referred to the Office of the Inspector General, 4 to the Case Follow-Up Unit, 6 to the Office of the Comptroller General, and 15 to the Administrative Disciplinary Committee. In exercise of its disciplinary powers, the Judiciary Council handed down 249 decisions, disaggregated as follows: (46) reprimands; Office of the Inspector General (7); no disciplinary measures applied (22); suspensions (6); referral to the Administrative Disciplinary Committee (67); recommended separation (12); definitive closure (28); reinstatement in duties (2); commendation of judges for regular inspection (29) and others (30). - In addition, in 2012, the Judiciary Council conducted 12 disciplinary proceedings involving judges, four of whom were separated from service, six were discharged, and one was suspended for 30 days.”

[148] With regard to the above information, the Committee finds that it serves to show that the Judiciary Council, a body that began to function in March 2011, has exercised its powers of disciplinary control over judges, officials, and employees of the judiciary under Article 156 of the Constitution, with the above-noted results .

3.4. Conclusions and recommendations

⁵¹ Response of the Dominican Republic concerning the judiciary, pp. 21 and 22.

[149] Based on the foregoing comprehensive analysis of the judiciary, the Committee offers the following conclusions and recommendations:

[150] The Dominican Republic has considered and adopted measures intended to maintain and strengthen the judiciary as an oversight body, as indicated in Chapter II, Section 3 of this report.

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

- 3.4.1 Adopt the necessary measures to allocate the judiciary the appropriate budget in accordance with Law 46-97, as amended by Law 194-04 (see Chapter II, Section 3.2 of this report).
- 3.4.2 Take the necessary steps of a budgetary nature to put into operation the criminal courts that have been created by the law but are not yet operational (see Chapter II, Section 3.2 of this report).
- 3.4.3 Take the appropriate steps of a budgetary nature to ensure implementation of the “Hearings Audio Capture” modernization project in the country’s criminal courts (see Chapter II, Section 3.2 of this report).
- 3.4.4 Adopt pertinent measures to ensure the territorial expansion of the criminal court office management model (MGDP) (see Chapter II, Section 3.2 of this report).
- 3.4.5 Take the appropriate steps to ensure the implementation of the line of action on “systematization, creation, and dissemination of jurisprudence and judicial documents” envisaged in the Strategic Plan 2009-2013, in the country’s criminal justice system, particularly where corruption is concerned (see Chapter II, Section 3.2 of this report).
- 3.4.6 Adopt the necessary measures to ensure that the National Judicature School (ENJ) imparts to criminal court judges specific training in trying the acts of corruption criminalized in Articles 166, 167, 169-172, and 405 of the Criminal Code (see Chapter II, Section 3.2 of this report).
- 3.4.7 Adopt pertinent measures, taking into account the available resources, for judges to be paid an adequate wage (see Chapter II, Section 3.2 of this report).
- 3.4.8 Prepare statistics on cases processed by the Supreme Court of Justice corresponding to criminal actions for acts of corruption brought against the senior officials mentioned in Article 154(1) of the Constitution, so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or penalize, in order to identify challenges and recommend corrective measures (see Chapter II, Section 3.2 of this report).
- 3.4.9 Prepare statistics on appeals processed by the Supreme Court of Justice in connection with acts of corruption in keeping with its powers under Article 154(3) of “hear[ing], as the court of last resort, actions whose hearing at first instance belongs to the jurisdiction of courts of appeal or their equivalent,” so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a

decision, or have had a decision adopted on merits, and whether the decision was to acquit or convict, in order to identify challenges and recommend corrective measures (see Chapter II, Section 3.2 of this report).

3.4.10 Prepare statistics on “privileged jurisdiction” cases heard by the criminal divisions of courts of appeals concerning acts of corruption, so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or penalize, in order to identify challenges and recommend corrective measures (see Chapter II, Section 3.2 of this report).

3.4.11 Prepare statistics on corruption cases heard by courts other than the Supreme Court or courts of appeals, such as courts of first instance, so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or penalize, in order to identify challenges and recommend corrective measures (see Chapter II, Section 3.2 of this report).

4. COURT OF ACCOUNTS OF THE DOMINICAN REPUBLIC

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

[152] The Court of Accounts of the Dominican Republic [*Cámara de Cuentas de la República Dominicana*] (CCRD) has a set of provisions in its legal framework, as well as other measures that refer, inter alia, to the following:

[153] As to its purpose, according to Article 248 of the Constitution, the CCRD is the organ in charge of external fiscal oversight of public funds, administrative processes, and State-owned assets. It is a technical organ with legal personality that enjoys administrative, operational, and budgetary autonomy. It is composed of five members who are elected by the Senate of the Republic from a shortlist of three names submitted by the House of Deputies for a period of four years, and who shall remain in office until their replacements have been designated.

[154] Article 249 sets out the requirements for being a member of the CCRD. The body with authority to hold them to liability for their actions is the Senate, based on articles of impeachment presented by the House of Deputies, as provided in Articles 80(1) and 83(1) of the Constitution. Articles 12, 14, 15, and 16 of Law 10-04 contain provisions regarding ineligibility for appointment, separation from office, conflict of interest with other remunerated public or private positions except teaching, and liability.

[155] As regards its functions, Article 250 of the Constitution provides that, apart from those accorded by the law, they shall be: 1) To examine the general and specific accounts of the Republic; 2) to present to the National Congress reports on inspections of state-owned property; 3) to audit and analyze execution of the national budget annually approved by the National Congress, based on the statements of income and expenditure presented by the executive branch in accordance with the Constitution and laws, and to submit the corresponding report to the latter by April 30 of the following year for its information and decision; 4) to issue mandatory norms on interinstitutional coordination of the organs and agencies that control and audit public resources; 5) to carry out special investigations at the behest of either or both legislative houses.

[156] Law 10-04 envisages, at Article 10, among others, the following functions for the CCRD: To perform external financial audits, management audits, studies and special investigations of public

or private agencies, entities, and physical and legal persons subject to this law (paragraph 1); to formulate mandatory provisions and recommendations for public servants who bear legal or regulatory responsibility for their enforcement (paragraph 4); to identify and mention in its reports facts connected with the violation of established standards that give rise to administrative or civil liability or evidence of criminal liability (paragraph 5); to issue rulings of an enforceable nature in administrative and civil liability proceedings (paragraph 6); to instruct nominating authorities to impose penalties on the appropriate person or persons, based on the findings of its external control activities (paragraph 7); to refer any cases not dealt with as mentioned in the preceding paragraph to the highest national authorities so that they might impose the appropriate penalties on those involved in the acts in question (paragraph 8); to investigate complaints or reasonable suspicions of wrongdoing involving state-owned assets, or to support, where appropriate, the work of the agencies specializing in such matters (paragraph 10); to participate, either on its own initiative or by providing assistance to other agencies, in activities to prevent or combat corruption (paragraph 17).

[157] With regard to the authority of the CCRD to establish liability, Article 46 of Law 10-04 provides that it is competent to determine administrative and civil liability as well as to report facts that constitute evidence of criminal liability; Article 47 states that the administrative liability of public servants employed by the entities and agencies subject to this law shall be established by their failure to observe legal and regulatory provisions and breach of their powers, authority, functions, and duties or contractual stipulations; Article 48⁵² Provides that the civil liability of those servants shall be determined in correlation to the financial injury demonstrated in the reduction of assets suffered by those entities or the agency concerned as a result of their actions or culpable negligence; Article 49 provides that when the findings of audits, studies, and investigations performed by the auditors of the Courts of Accounts establish evidence of criminal liability, the Public Prosecution Service, agencies specializing in prevention and investigation of corruption, the competent administrative and judicial authorities, and the authority that appointed the public servants or employees involved in the punishable acts shall be notified, as shall the authorities that appointed anyone who causes harm to public property as a result of the acts or omissions of public servants or employees or third party contractors or recipients of subsidies or appropriation of public funds. It shall enclose with its complaint all the evidence collected that supports its observations, measures, conclusions, and recommendations, so that the aforementioned authorities might take legal action against those persons against whom evidence of criminal liability has emerged.

[158] With respect to the way in which decisions are adopted and appeals allowed against them, Article 19 of Law 10-04 provides that the CCRD may not adopt any decisions without the presence of the president or vice president and a number of members that, when added to the former, constitute more than half of its members; decisions shall be adopted by a majority of votes; and in the event of a tie the president shall have a casting vote. Article 48(V) provides that the decisions on

⁵² Paragraph I of this article provides that when the CCRD finds that harm to property has been committed and identifies those responsible it shall seek, without being required to wait until the examination concludes, restitution of the assets or amounts and shall order the superior authority of the entity to take appropriate steps to that end. If, within 30 days following formal notice of the act, the authority fails to proceed to comply with the instructions given, the CCRD shall proceed to submit the deed for judicial action by means of a resolution adopted by its full membership, in keeping with the rules of procedure drawn up by said institution. Paragraph II of the same article adds that in the cases of articles 47 and 48, the conclusions contained in the resolutions adopted on the basis of auditors' reports, studies, and special investigations by the CCRD shall be enforceable and, as such, shall serve as grounds for the competent authorities, through the collection procedure established in the Tax Code, to take the necessary steps to recover the amounts and effects that belong to the Dominican State and its institutions whose assets were diminished by the unlawful acts that gave rise to the harm caused, without prejudice to such compensation as may be decided upon by the competent courts.

administrative or civil liability envisaged in Articles 47 and 48 of this Law may be appealed to the Superior Administrative Tribunal.

[159] With regard to the scope of its functions, Law 10-04 provides at Article 2 that the Law governs: 1. All the branches of government, constitutional organs, and their dependent areas; 2. The organs that comprise the central public administration; 3. Autonomous and decentralized state institutions and their dependent areas; 4. Entities governed by public law created by law or decree; 5. Municipal councils, their dependent areas, and other municipal corporations, as well as their regulating agency;⁵³ 6. Corporations or companies whose capital includes, albeit partially, contributions from the State, municipalities, or autonomous institutions; 7. Physical and legal persons, whether public or private, that in any capacity collect, receive, or administer public resources, or that are contractually tied to the State, municipalities, or autonomous institutions.

[160] As to coordination of its functions with other organs and obtaining assistance from other authorities and the citizenry, Regulations 06-04 of Law 10-04 create at Article 56 an ad-honorem Coordination Committee designed to ensure the harmonious operational implementation of internal and external controls in the framework of the National Oversight and Audit System (*Sistema Nacional de Control y Auditoria*).⁵⁴ It is composed of the President of the Court of Accounts, who chairs it, and the Comptroller General, and it has the authority to adopt by consensus decisions on: (1) Coordination of internal and external controls to ensure their effectiveness and harmony, with as much economy as possible. (2) Strengthening the potential for the results of internal and external controls to contribute to the attainment of intended institutional objectives. (3) All aspects that, in general, contribute to the strengthening, effectiveness, and efficiency of internal and external controls. Article 62 of those regulations provides, for its part, that any individual or social organization may present suggestions and observations in writing to the CCRD as the superior organ of the National Oversight and Audit System, so that the performance and acts of persons governed by Law 10-04 and its Regulations can be investigated. Furthermore, Article 10(9) of Law 10-04 empowers the CCRD to instruct the competent authority to impose administrative penalties on public servants who fail to collaborate with their staff in enabling them to carry out their duties properly or who in any way obstruct the correct performance thereof.

[161] As regards its human resources, their training, and the rules applicable to them, the CCRD is governed by Law 41-08 (Civil Service Law), which regulates, inter alia, the civil service career and employment through competitive processes (Article 37) and the ethical and disciplinary standards for public servants (Articles 77 to 89). It is also governed by Implementing Regulations 523-09 on Labor Relations, which recognize the right of civil servants to receive appropriate induction and training (Articles 48 to 54) and contain rules with regard to their duties (Articles 97 to 100), grades of disciplinary violations and penalties (Articles 101 to 109), and the disciplinary process (Articles 110

⁵³ Article 106 of Law 176-07 (Municipal Law) provides that one of the functions of the Municipal League (*Liga Municipal*) “(a) to promote by all available means the best relations and the most effective spirit of cooperation between the municipalities of the Dominican Republic and the central government, so that they can provide one another the greatest possible assistance in the performance of their functions, in solving their problems, in carrying out their plans for progress, and in anything that seeks to achieve greater well-being in their respective territories.”

⁵⁴ The information provided here in connection with this committee also applies in the section of this report “Existence of provisions in the legal framework and/or other measures” concerning the Office of the Comptroller General (CGR)

to 125). Furthermore, in keeping with Article 25 of Law 10-04, it has its Human Resources Regulations.⁵⁵

[162] As regards its budget, Article 27 of Law 10-04 provides that, in view of the status of the CCRD as an oversight body and auditor and in order to ensure its full independence, its budget shall be drawn up by a special committee composed of representatives of the Court itself, the Senate, and the House of Deputies, and that it shall be incorporated annually by the executive branch in the Budget of Estimated Revenue and the Public Spending Law.

[163] As regards the existence of manuals or documented procedures and the use of technology for carrying out its tasks, the CCRD has the Government Audit Operational Manuals, the Guidelines for the Taxpayer, and Operating Regulations for the Support and Follow-Up Committees for Departmental Management of the Courts of Accounts. In addition, automated systems have been implemented for processing and creating documents, including the Governance Management System [*Sistema de Gestión para la Gobernabilidad*] (SIGOB) and the Structured Regular Processes System [*Sistema de Trámites Regulares Estructurados*] (TRE).⁵⁶

[164] With respect to accountability, Article 43 of Law 10-04 states that the CCRD shall present to the National Congress at the first regular legislature each year a report on the findings of the analysis and evaluation of the execution of the Budget of Estimated Revenue and the Public Spending Law for the previous year, as well as of the budget for municipal councils and decentralized and autonomous entities, and that the report shall be accompanied by the findings of the audits, studies, and special investigations performed during the same period. It is also required to make those results available to the public electronically or by such other mechanisms as are envisaged in its budget. That article also states that the report shall also contain the results of the audit performed on the CCRD as well as the steps that it has taken to fulfill its objectives and institutional goals through management indicators. Article 44 of the above law states that, the aforesaid report notwithstanding, the CCRD is empowered to inform the national Congress and society in general of the specific results of any audit, study, or investigation carried out in accordance with the provisions of this law.

[165] As to the way in which information is provided to members of the public, under the section titled *Auditoría* (Auditing), the CCRD website (www.camaradecuentas.gob.do) provides information on the roster of audit firms, the annual audit plan, and guidelines for obligated persons. The section headed *Contraloría Social* (Societal Comptrollership) contains information on presenting complaints online, frequently asked questions, and societal oversight workshops; the *Transparencia* (Transparency) section provides information on the CCRD's Office of Access to Information and the standards governing the rights of citizens to access government information. Furthermore, the CCRD also publishes on its website the annual reports that it submits to Congress under Article 43 of Law 10-04.

⁵⁵ Article 25 of Law 10-04 provides that the full membership of the CCRD shall adopt a set of Human Resources Regulations that shall include the duties, rights and functions, hierarchy, post assessment, and a career plan to be gradually implemented for the tenure and promotion of its employees. During the on-site visit it transpired that, in spite of these Regulations, the CCRD has opted for the general civil service regime envisaged in the Civil Service Law (Law 41-08) and its implementing regulations, and that work is underway on the draft of new Human Resources Regulations. A copy was subsequently provided of the Regulations, which are currently under review. They are available at: http://www.oas.org/juridico/pdfs/mesicic4_repdom_reglaCCRD.pdf

⁵⁶ Response of the Dominican Republic concerning the CCRD, p. 4.

[166] As regards institutional strengthening, the CCRD has its Strategic Plan for Institutional Development and Sustainability 2010-2016 (PEDSI),⁵⁷ the objectives of which can be summarized as follows: 1. To address the needs of the citizenry funneled to the CCRD through civil society organizations and individuals, in accordance with the legal provisions that establish societal oversight; 2. To strengthen proactive guidance for citizens on the services offered by the CCRD, as well as on the rights and duties of civil servants where external control processes are concerned; 3. To promote levels of coordination with the entities involved in control; 4. To strengthen management capabilities by redefining the internal processes of all the organizational structures of the CCRD in accordance with the Constitution, the law, and the powers vested in it, with a view to improving performance, adopting the necessary instruments and guidelines; 5. To design and implement the Comprehensive Public Entity External Control System [*Sistema Integral de Control Externo de Entidades Públicas*] (SICEEP); 6. To adapt the organizational structure of the CCRD to the best practices in use, in order to augment the quality, effectiveness, scope, and productivity of the service provided to the country, in keeping with the legal framework of the Civil Service; 7. Establish sustainable, comprehensive programs for managing its human resources that encourage a quality service to the Dominican nation, based on the probity of its staff; 8. Develop by 2011 the institution's capacity to perform all the various types of audits; 9. Promote an increase in the budget of the CCRD so that it may respond to the necessary changes that have been proposed for serving the nation effectively, efficiently, and economically, in accordance with Law 194-04 and Law 10-04.

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

[167] The Courts of Accounts of the Dominican Republic (CCRD) has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described in brief in section 4.1 of this report. Nonetheless, the Committee considers it appropriate to formulate a number of observations in relation thereto:

[168] First, bearing in mind that, according to information provided by the CCRD during the on-site visit, a more expedited procedure is needed for recovering, through civil proceedings, assets linked to declarations of civil liability as provided in Article 48 of Law 10-04, considering, moreover, that this would assist the CCRD in performing the functions assigned to it by paragraph I of that provision and Article 10(6) of that Law, regarding, respectively, the restitution of assets or amounts when it finds that harm to property has been committed and identifies those responsible, and issuing rulings of an enforceable nature in civil liability matters, the Committee will formulate a recommendation to the country under review in that connection (see Recommendation 4.4.1 in Chapter II of this report).

[169] Second, taking into account that during the on-site visit the CCRD noted that one of its difficulties is that in spite of the enactment of Law 176-07 (Municipal Law), no system has been put in place for effective oversight within municipalities and that there is a lack of training for those responsible for its implementation, the Committee will formulate a recommendation on this point to the State under review (see recommendation 4.4.2 in Chapter II of this report).

[170] Third, considering that during the on-site visit, the CCRD noted that the Dominican Municipal League has functions that impact oversight but that it is not effective in discharging them, and bearing in mind that one of the functions that Article 106 of Law 176-07 assigns to the League is that of “promoting, through all means available to it, optimal relations and the most effective spirit of cooperation among the municipalities of the Dominican Republic and with the

⁵⁷ During the on-site visit, the CCRD gave a presentation on the implementation status of this plan, which is available at: http://www.oas.org/juridico/ppt/mesicic4_repdom_plan.ppt

central government, so that they may provide the greatest mutual assistance possible in discharging the functions assigned to them, in resolving their problems, in carrying out their progress plans, and in all undertakings aimed at the greater well-being of their respective locations,” the Committee will formulate a recommendation on this point to the State under review (see recommendation 4.4.3 in Chapter II of this report).

[171] It is also worth noting in relation to the Dominican Municipal League that the Institute of Certified Public Accountants of the Dominican Republic (ICPARD), which was invited to participate in the on-site visit, said that the CCRD has been severely weakened at the local level, among other reasons because municipalities do not submit their financial statements to it through the Dominican Municipal League as Law 176-07 provides and that the latter does not perform its functions.

[172] Fourth, the Committee notes that, according to information provided by the CCRD during the on-site visit regarding implementation of its Strategic Plan for Institutional Development and Sustainability 2010-2016 (PEDSI), despite the fact that substantial progress has been in achieving five of its nine objectives, the remaining four, which, succinctly speaking, target strengthening the management capacity of the CCRD (objective 4), design and implementation of the Comprehensive Public Entity External Control System (SICEP) (objective 5); establishment of sustainable, comprehensive programs for managing human resources (objective 7); and promoting an increase in the budget of the CCRD (objective 9), are, respectively, 57%, 75%, 67%, and 90% incomplete. Given the importance of the aforementioned objectives for the CCRD, the Committee will formulate a recommendation to the country under review that it consider adopting the appropriate measures to ensure its implementation (see Recommendation 4.4.4 in Chapter II of this report).

[173] It is worth mentioning regarding the foregoing that in its response to the questionnaire concerning the CCRD,⁵⁸ the country under review noted the following in the section on obstacles to fulfilling its purposes: “The Court of Accounts of the Dominican Republic is currently in the midst of an institutional strengthening process aimed at achieving and fulfilling its objectives and functions. Financial constraints prevent us from expanding the scope of our activities and providing our employees with the technical training that they need.”

[174] Fifth, given that, in addition to what is noted in the preceding paragraph, with respect to the economic limitations faced by the CCRD, the State also noted in its reply to the questionnaire⁵⁹ that its resources come chiefly from a “Budget Allocation” that, according to Article 27 of the Civil Service Law (No. 10-04), is awarded by a special committee of Congress composed of representatives of the CCRD itself and a number of Senators and Deputies, the Committee will formulate a recommendation to the State under review so that, in consideration of the budgetary autonomy granted to this constitutionally created oversight agency by Article 248 of the Constitution, it consider adopting the relevant measures so that the entity can effectively exercise that autonomy and prepare its own budget, in order to be able to discharge its tasks without financial difficulties (see recommendation 4.4.5 in Chapter II of this report).

[175] Sixth, given that in the State’s reply to the questionnaire,⁶⁰ the CCRD notes that “our technical cooperation needs include specialized training, logistical support, and information technology equipment,” and bearing in mind that the same reply also notes that the agency receives economic and technical assistance from international organizations, the Committee will formulate a recommendation to the State under review in order for it to consider taking the appropriate steps to request those organizations to provide the CCRD with the economic and

⁵⁸ Response of the Dominican Republic concerning the CCRD, p. 12.

⁵⁹ Response of the Dominican Republic concerning the CCRD, p. 5.

⁶⁰ Response of the Dominican Republic concerning the CCRD, p. 12.

technical assistance necessary for it to provide specialized training to its personnel and to ensure it the logistical support and information technology equipment it requires (see recommendation 4.4.6 in Chapter II of this report).

[176] Seventh, taking into account that, according to the information supplied by the CCRD during the on-site visit, the Human Resources Regulations contemplated in Article 25 of Law 10-04, which authorize the full membership of the CCRD to adopt them and that those regulations, which shall include, inter alia, the duties, rights and functions, hierarchy, post assessment, and career plan for its employees, need to be updated, given that the CCRD has opted for the general civil service regime envisaged in the Civil Service Law (Law 41-08), the Committee will formulate a recommendation in that connection to the country under review (see recommendation 4.4.7 in Chapter II of this report).

[177] Eighth, considering the absence of a manual describing the duties pertaining to positions in the CCRD other than those of its senior management, and the requirements for their occupancy, the Committee will formulate a recommendation to the country under review that the appropriate authority consider issuing such a manual (see Recommendation 4.4.8 in Chapter II of this report).

[178] Ninth, during the on-site visit the CCRD mentioned as an obstacle the fact that the regime envisaged in the Civil Service Law allows employees to engage in professional activities provided that they do not conflict with their duties, they only work for the CCRD on a part-time basis, and despite the fact that consideration has been given to having full-time employees, that would only be possible if the pay, which is currently very low, was improved. In light of the foregoing, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 4.4.9 in Chapter II of this report).

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

[179] Information was gathered regarding the results achieved by the Court of Accounts of the Dominican Republic (CCRD), of which the following is highlighted:

[180] First, in its response to the questionnaire⁶¹ regarding results in preventing corruption, the country under review reported, “The Court of Accounts has carried out information campaigns and implemented training programs targeting different sectors of the population with a view to raising awareness about the way public resources are managed and how to present complaint. To that end, we have been able to rely on the collaboration of *Participación Ciudadana* under the cooperation agreement signed with it.”⁶²

[181] With regard to the preceding information, bearing in mind that it is not set out in a way that would allow the Committee to know more about the specific activities that the CCRD carries out in the area of preventing corruption and, in particular, about the information campaigns and training programs alluded to therein, the Committee will formulate a recommendation to the country under review (see Recommendation 4.4.10 in Chapter and in II of this report).

⁶¹ Response of the Dominican Republic concerning the CCRD, p. 6.

⁶² In response to a request made during the on-site visit, the CCRD supplied the cooperation agreement signed with the civil society organization *Participación Ciudadana*, which is available at: http://www.oas.org/juridico/spanish/mesicic4_repdom.htm (section concerning the CCRD)

[182] Second, in its response to the questionnaire,⁶³ the country under review notes, “With regard to decisions adopted in the past five (5) years, and their consequences, we would like to report the following.” It then refers to the “reports on audits carried out that are being examined by the appropriate regular courts,” listing seven and noting, with respect to them all, as “liability arising from the audits,” the following: “Administrative and Civil Liability and Evidence of Criminal Liability (Articles 47, 48, 49, and 54, Law 10-04 of January 20, 2004).” It further reports that as a result of those orders there are six criminal proceedings underway in the appropriate regular courts and that one conviction has been issued.

[183] With respect to the foregoing information, the Committee finds that it serves to show that the CCRD has declared administrative and civil liability in a number of cases and has established evidence of criminal liability, in the performance of its functions under Articles 47, 48, 49, and 54 of Law 10-04. It also serves to show that the CCRD has followed up on how the competent judicial authorities have handled the evidence of criminal liability, with the above-noted results. However, given that no information has been made available with respect to follow-up on and the results of the cases in which administrative and civil liability was declared, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 4.4.11 in Chapter II of this report).

[184] Regarding the foregoing, it is worth noting that during the on-site visit information was also provided about “the preparation of approximately 200 audit reports in which administrative and civil liability were found, as was evidence of criminal liability, which has been referred to the Office of the Attorney General for the attention of and investigation by the relevant department.” However, no information was provided regarding the results of those audits and it was mentioned that there is no follow-up with respect to the imposition of penalties for administrative liability. Information was provided, however, about the criminal cases and it was reported that two convictions have been handed down in nine years.

[185] Bearing in mind the information that was provided during the on-site visit in the sense that two convictions that have been handed down in nine years, the Committee will formulate a recommendation to the country under review that it consider conducting a study to determine the underlying causes of the few convictions handed down by the law courts based on the evidence of criminal liability found by the CCRD (see Recommendation 4.4.12 in Chapter II of this report).

[186] In addition to the foregoing, in light of the fact that there are no available statistics compiled on the results of audits, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 4.4.13 in Chapter II of this report).

[187] Lastly, bearing in mind that no information has been provided regarding the number of investigations carried out by the CCRD in the last five years in accordance with Article 10(10) of Law 10-04, which assigns it the function of investigating complaints or reasonable suspicions of wrongdoing involving state-owned assets, or information regarding the results of such investigations, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 4.4.14 in Chapter II of this report).

[188] In addition, the civil society organization *Fundación Institucionalidad y Justicia* (FINJUS), which was invited to participate in the on-site visit, provided, inter alia, the following information about the CCRD in a written document (which it read and provided an electronic version of) referring to the budget execution reports of the CCRD:⁶⁴ “...We were struck that previous reports by

⁶³ Response of the Dominican Republic concerning the CCRD, pp. 8 to 12.

⁶⁴ Available at: http://www.oas.org/juridico/pdfs/mesicic4_repdom_finjus.pdf

this important state organ recorded highly negative results, without any subsequent action being taken. Particularly worth noting in the 2012 budget execution report is the following: (i) the lack of linkage between budget execution and planning processes, the definition of strategic objectives and accomplishment of concrete results; (ii) deficient budget programming and infringements of the principles of accuracy and integrity of the budget due to the inexactness of the amounts needed to fulfill the State's obligations; (iii) violation of the principles of integrity and accuracy represented by the budget overruns incurred by 79.4% of the institutions audited. -The above-cited report mentioned such serious faults as failure to identify the recipients of transfers of public funds; deviation from the deficit ceiling established in the budget of 0.53 percent or RD\$12,660.3 million; over-budget increases in domestic and international financing, loans, and debts; and partial or total noncompliance with the mandatory accountability obligations by approximately 50% of municipal entities, in clear violation of Article 70 of Law 10-04 on the supervisory body of the national oversight system.”

4.4. Conclusions and recommendations

[189] Based on the foregoing comprehensive analysis of the Court of Accounts of the Dominican Republic (CCRD), the Committee offers the following conclusions and recommendations:

[190] The Dominican Republic has considered and adopted measures intended to maintain and strengthen the Court of Accounts of the Dominican Republic (CCRD) as an oversight body, as indicated in Chapter II, Section 4 of this report.

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

- 4.4.1 Adopt a more expedited procedure for recovering, through civil proceedings, assets linked to declarations of civil liability as provided in Article 48 of Law 10-04, in order to make it easier for the CCRD to perform the functions assigned to it in paragraph I of that provision and Article 10(6) of that Law, regarding, respectively, the restitution of assets or amounts when it finds that harm to property has been committed and identifies those responsible, and issuing rulings of an enforceable nature in civil liability matters (see Chapter II, Section 4.2 of this report).
 - 4.4.2 Adopt appropriate measures to enable the CCRD to conduct effective oversight of municipalities, such as imparting training to those responsible for implementing Law 176-07 (“Municipal Law”)- (see Chapter II, Section 4.2 of this report).
 - 4.4.3 Ensure through measures deemed fitting that the Dominican Municipal League collaborates as it should with the CCRD by carrying out its functions that influence fiscal oversight (see Chapter II, Section 4.2 of this report).
 - 4.4.4 Adopt pertinent measures to ensure execution of the activities under the objectives contained in the Strategic Plan for Institutional Development and Sustainability 2010-2016 (PEDSI) on which progress is low (see Chapter II, Section 4.2 of this report).
 - 4.4.5 Take the appropriate steps so that, in accordance with the budgetary autonomy assigned to the CCRD by Article 248 of the Constitution, the agency can effectively
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exercise that autonomy and prepare its own budget, in order to discharge its tasks without financial difficulties (see section 4.2 of Chapter II of this report).

- 4.4.6 Take the appropriate steps to request the international organizations to provide the CCRD with the economic and technical assistance necessary for it to provide specialized training to its personnel and to ensure it the logistical support and information technology equipment it requires (see section 4.2 of Chapter II of this report).
- 4.4.7 Update the Human Resources Regulations of the CCRD, which include, inter alia, the duties, rights and functions, hierarchy, post assessment, and career plan for its employees, in keeping with the general civil service regime envisaged in the Civil Service Law (Law 41-08) (see Chapter II, Section 4.2 of this report).
- 4.4.8 Adopt, by the appropriate authority, a manual or document describing the duties pertaining to positions in the CCRD other than those of its senior management, and the requirements such as profiles for their occupancy (see Chapter II, Section 4.2 of this report).
- 4.4.9 Adopt appropriate measures, subject to the availability of financial resources, for CCRD staff to be paid an adequate wage for their profession and functions, so that the CCRD can employ them on a full-time basis (see Chapter II, Section 4.2 of this report).
- 4.4.10 Compile more-specific statistics on the activities that the CCRD carries out in the area of preventing corruption and, in particular, on its information campaigns and training programs, in order to identify challenges and recommend corrective measures (see Chapter II, Section 4.3 of this report).
- 4.4.11 Adopt a monitoring system that would enable the CCRD to know how the competent authorities process cases in which it has formulated or determined administrative and civil liability in accordance with Articles 47 and 48 of Law 10-04, as well as their results, in order to identify challenges and recommend corrective measures (see Chapter II, Section 4.3 of this report).
- 4.4.12 Conduct a study to determine the possible underlying causes of the few convictions handed down by the law courts based on the evidence of criminal liability found by the CCRD, in order to identify challenges and recommend corrective measures (see Chapter II, Section 4.3 of this report).
- 4.4.13 Compile statistics on the results of audits and investigations performed by the CCRD pursuant to Article 10(1) of Law 10-04, in order to identify challenges and recommend corrective measures (see Chapter II, Section 4.3 of this report).
- 4.4.14 Compile statistics on the number of investigations carried out by the CCRD pursuant to Article 10(10) of Law 10-04, which assigns it the function of investigating complaints or reasonable suspicions of wrongdoing involving state-owned assets, and on their results, in order to identify challenges and recommend corrective measures (see Chapter II, Section 4.3 of this report).

5. OFFICE OF THE COMPTROLLER GENERAL OF THE REPUBLIC (CGR)

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

[192] The Office of the Comptroller General (CGR, for the Spanish) has a set of provisions in its legal framework, as well as other measures that refer, inter alia, to the following:

[193] As regards its purpose, pursuant to Article 247 of the Constitution, the Office of the Comptroller General of the Republic [*Contraloría General de la República*] (CGR), is the executive branch body that supervises internal oversight, conducts internal inspections and evaluations of the proper collection, management, use and investment of public funds, and authorizes payment orders following corroboration of compliance with legal and administrative procedures, by the institutions within its area of responsibility in accordance with the law.

[194] With respect to the scope of its responsibility, according to Article 2 of Law 10-07, the National Internal Control System [*Sistema Nacional de Control Interno*] (SINACI), of which the CGR is the supervising body, covers the following entities and agencies: the central government, decentralized and autonomous institutions, state social security institutions, public-sector enterprises in which the state owns a majority interest, and municipal and the National District authorities. Pursuant to paragraphs II and III of that article, the exceptions are state-owned financial entities regulated by the Banking Superintendency, the latter being subject to the supervision and oversight of the CGR; the legislative and judicial branches, the Court of Accounts, and the Central Elections Authority, which are required to maintain their own internal control, taking as their frame of reference Law 10-07 and the rules issued by the CGR.

[195] As regards its powers, Article 14 of Law 10-07 assigns it, among others, the following: to inspect and evaluate, in accordance with governmental internal auditing standards that it issues in the framework of international standards applicable to the public sector, and in accordance with the programs, objectives, goals, and results envisaged in the Budget, aspects such as the effectiveness of internal control by the entities and agencies governed by this law, and to report the results thereof to the relevant institution and the executive branch (paragraph 2); to advise the entities and agencies governed by this law on improving and strengthening internal control, through recommendations presented in the reports on the results of the assessments that it conducts (paragraph 3);⁶⁵ To coordinate, provide guidance for, and evaluate the work of internal audit units (paragraph 4);⁶⁶ to carry out administrative investigations of disparities detected in the use and investment of public resources as well as in cases where it is determined, as a result of the budget execution assessments

⁶⁵ Article 19 of Decree 491-07 provides that, according to Article 7(3) of Law 10-07, the entities and agencies governed by the latter are required to comply with the internal control recommendations made by the CGR and its internal audit units, for which purpose, once alternative solutions for resolving findings have been accepted or defined with the parties concerned and the responsible officials, the head of the entity is required to propose to the Office of the Comptroller General or the Internal Audit Unit, respectively, a timetable for its implementation. Once the alternative solutions have been accepted or defined, those recommendations become mandatory and failure to comply with them shall constitute disobedience under the terms of the same article.

⁶⁶ According to Article 27 of Law 10-07, internal audits are an integral part of internal control and shall be performed by a specialized technical unit comprising multidisciplinary professional staff and independent of the operations that it is auditing, which shall be established in each entity or agency governed by this law and headed by a director. The unit shall operate under rules issued by the CGR and be under the latter's administration, as well as being financially dependent upon it. According to the rules issued by the Office of the Comptroller, its functions in relation to the relevant entities or agencies shall be, among others, to verify compliance with the internal audit recommendations issued by the CGR and the external ones from the Court of Accounts (paragraph 6), as well as coordinating with external oversight and collaborating with societal oversight and anticorruption activities (paragraph 8).

carried out by internal audit units, that the physical progress of public investment programs and projects does not match the financial appropriations released by the National Budget Office (paragraph 7.a and b); and whenever warranted by the results of its investigations, to refer the record of those investigations to the Public Prosecution Service (paragraph 8).

[196] Article 15 of the Law 10-07, which deals with the authority of the CGR to establish liability, provides that, without prejudice to the powers of the Court of Accounts or any other agency concerned with such matters, according to the relevant rules that the executive branch may issue, the CGR may establish the administrative and civil liability of public servants for infringements that they commit in the exercise of their powers and duties, based on an evaluation report or internal audit; Article 18 of that law provides that among the powers of the Comptroller General are to issue reports on evaluations or inspections conducted by auditors and reports containing the findings of administrative investigations, with a view to their referral to the executive branch and the appropriate entities and organs (paragraph 4); and to issue, based on legal analyses of liability and reports on evaluations and investigations, resolutions establishing administrative liability of current or former public servants and process them appropriately (paragraph 5).

[197] Article 24 of Decree 491-07 (Implementing Regulations of Law 10-07) provides that, within 90 days following the adoption of said decree, the CGR shall prepare and submit to the executive branch for consideration the Rules of Procedure on Public Servant Liability envisaged at Article 8 of Law 10-07 and that those rules of procedure shall include, at a minimum: 1. The basic technical and legal procedures for: (a) carrying out the administrative investigations referred to in Article 14(7) of Law 10-07; (b) establishing and processing administrative and civil liability, as well as evidence of criminal liability, of public servants, as envisaged in Articles 8 and 15 of Law 10-07; and (c) determining the penalty for disobedience by public servants, envisaged at Article 31 of Law 10-07. 2. Basic rules on the legal analysis of liability provided for in Article 18(5) of Law 10-07 and the processing of the supporting elements for the reports on the evaluations, administrative investigations, or internal audits on which the decisions contained in the opinion as to liability of public servants are based, and the basic elements of that opinion. 3. The challenges that public servants can invoke against decisions of the Office of the Comptroller. 4. The Rules of Procedure shall include appropriate regulations on the civil and criminal liability of private individuals, provided in Article 32 of Law 10-07.

[198] As regards the appointment of the Comptroller General, Article 13 of Law 10-07 provides he or she shall be appointed by the executive branch on the basis of merit or professional competence and that there shall be a Deputy Comptroller General appointed by the President of the Republic from a shortlist of three candidates presented by the Comptroller General. Article 43 of Decree 491-07 provides that for the purposes of Article 19 of Law 10-07, the executive branch may dismiss the Comptroller General for violation of the prohibitions set out in Article 21 of Law 10-07 or for any other due cause determined by the President of the Republic.⁶⁷

⁶⁷ Article 21 of Law 10-07 states that the Comptroller General, the Deputy Comptroller General, the directors and chiefs of internal audit units, and any other official with executive or management responsibilities in the Office of the Comptroller may not: 1. Exercise liberal professions outside of their duties, except for teaching; 2. Hold another public office; 3. Intervene in the processing or decision of cases submitted to their authority in which they have, either directly or indirectly a personal interest, or when they are related to the interested parties, by consanguinity or affinity, either in a straight line or collaterally, up to and including the third degree, and its “paragraph” states that violation of the above provisions shall constitute a serious fault by the servant and be cause for automatic dismissal.

[199] With respect to the way in which decisions are adopted and the appeals allowed against those decisions, Article 18(1) of Law 10-07 provides that the Comptroller General exercises supervisory authority over the National Internal Control System as well as other powers of the CGR and states at Article 15(II) that public servants and physical persons or legal representatives of private legal persons or nongovernmental organizations may lodge the appeals that the law envisages against administrative decisions of the Comptroller General of the Republic establishing administrative liability, in accordance with the rules of procedure issued by the executive branch.

[200] As to coordination of its functions with other organs and obtaining assistance from other authorities and the citizenry, in addition to the ad honorem Coordination Committee,⁶⁸ --composed of the President of the Court of Accounts (who chairs it) and the Comptroller General of the Republic-- envisaged in Article 56 of the Implementing Regulations of Law 10-04, Article 16 of Decree 491-07 provides that the respective governing bodies of the technical systems that comprise or are connected with the State Integrated Financial Management System shall coordinate with the CGR, as the governing body of the National Internal Control System (SINACI), the inclusion of a critical or key points of control and internal control mechanisms or techniques in the administrative/technical processes of each system, taking care not to diminish the responsibility of public servants in the exercise of their functions. Article 31 of law 10-07, for its part, provides that any public servants who refuses to turn over information on documents or to cooperate with the CGR in order to enable it to exercise the powers, authority, and functions envisaged in this law, who otherwise obstructs the work of its officials and employees or of internal auditors, or who refuses to comply with the instructions issued by the CGR by his authority under this law, shall be punished with temporary suspension without pay; Article 10 of Law 10-07 provides that societal oversight, as a means of citizen supervision and participation in safeguarding public spending in programs that have a social or community impact or that seek to ensure the correct use of public resources, interacts with the SINACI by providing relevant information to the CGR.⁶⁹

[201] As regards its human resources, their training, and the rules applicable to them, the CGR is governed by Law 41-08 (Civil Service Law), which regulates, inter alia, the civil service career and employment through competitive processes (Article 37) and the ethical and disciplinary standards for public servants (Articles 77 to 89). It is also governed by Implementing Regulations 523-09 on Labor Relations, which recognize the right of civil servants to receive appropriate induction and training (Articles 48 to 54) and contain rules with regard to their duties (Articles 97 to 100), grades of disciplinary violations and penalties (Articles 101 to 109), and the disciplinary process (Articles 110 to 125). A code of ethics has also been adopted and for training its staff it has the National Oversight School Foundation [*Fundación Escuela Nacional de Control*] (FENC).⁷⁰

⁶⁸ Paragraph I of this article provides that this committee shall convene on a regular basis every three months or whenever necessary, which meetings must be convoked by the governing body of the National Oversight and Audit System, which, according to Article 6 of Law 10-04 is the Courts of Accounts of the Dominican Republic (CCRD). This Committee's functions are described in the section of this report dealing with the existence of a legal framework and/or other measures concerning the CCRD.

⁶⁹ The response of the Dominican Republic concerning the CGR (p. 14) notes, in relation to this rule that, in accordance with Commitment No. 14 on Open Governance, which refers to the "Implementation of a System of Societal Comptrollership," "on August 28, 2012, various civil society organizations were invited to an event marking the public opening up to these entities, given that there has always been collaboration on the part of the Office of the Comptroller General; only ADOCO and *Justicia y Transparencia* attended. In that regard, the next step is to prepare a plan of action to continue to advance said commitment.

⁷⁰ Information regarding the training imparted by the FENC is available at: http://www.oas.org/juridico/PDFs/mesicic4_repdom_funda.pdf

[202] As regards its budgetary resources, the CGR is assigned a budget in accordance with the Budget Law (Law 423-06), the institutional spending limits set by the Budget Bureau, and the institution's strategic plan and annual operating plan.⁷¹

[203] In terms of descriptions of functions, the existence of manuals or documented procedures for their performance, and the use of technology, the CGR has, among others, a Procedures Manual for its different areas⁷² and a Positions Manual,⁷³ which describes the duties of each position and establishes the requirements for their performance. It has also implemented different technology systems, including those for Contracts, Case Routing, Payroll, Internal Audit Unit, Job Certifications, Supplies, and Financial Management.⁷⁴

[204] With respect to accountability and ways of providing information to the public, the CGR prepares its Institutional Annual Report on activities carried out in the performance of its functions, which it publishes on its website www.contraloria.gob.do/sitecontraloria, where citizens can also find information on the CGR, concerning, *inter alia*, its powers, the rules that govern it, its programs and projects, its strategic plan, and the right to obtain public information. The website also provides access to the official portal for presenting complaints, claims, and suggestions www.311.gob.do.

[205] As for institutional strengthening, the CGR has an Institutional Strategic Plan 2010-2012.⁷⁵ which has the following objectives: 1. "Institutional Strengthening," with goals such as adjusting the legal framework of the CGR to the constitutional mandate and developing the capability to perform specialized audits and forensic investigations; 2. "Implementation of the Internal Control System (SINACI)"; and 3. "Operations," with goals such as performing specialized audits and forensic investigations and training for the public sector in fraud prevention.

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

[206] The Office of the Comptroller General (CGR) has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described in brief in section 5.1 of this report. Nonetheless, the Committee considers it appropriate to formulate a number of observations in relation thereto:

[207] First, bearing in mind the information provided by the CGR during the on-site visit that Law 10-07 of 2007, which created the National Internal Control System and the Office of the Comptroller General, needs reform in order to be consistent with the provisions contained in the Constitution of 2010 concerning the CGR and internal control as well as with International Accounting Standards (IAS), the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 5.4.1 in Chapter II of this report).

⁷¹ Response of the Dominican Republic concerning the CGR, p. 13.

⁷² Available at: http://www.oas.org/juridico/PDFs/mesicic4_reptom_proc.pdf

⁷³ Available at: http://www.oas.org/juridico/PDFs/mesicic4_reptom_levan.pdf

⁷⁴ Response of the Dominican Republic concerning the CGR, pp. 9 and 10.

⁷⁵ Article 18(6) of Law 10-07 instructs the Comptroller General the Republic to draw up a medium- and long-term strategic plan for executing the powers and functions of the CGR. Information on progress in the implementation of the Institutional Strategic Plan 2010-2012 can be seen at: http://www.oas.org/juridico/ppt/mesicic4_reptom_plan.ppt.

[208] With regard to the foregoing, it is worth mentioning that during the on-site visit the CGR reported that a proposed law has been drafted for the reform of Law 10-07, a copy of which they furnished.⁷⁶

[209] Second, taking into consideration that the Rules of Procedure on Public Servant Liability envisaged in Article 8 of Law 10-07 have not yet been issued, and given the importance of those rules for enforcing such liability because of the matters that it regulates in that respect, in accordance with Article 24 of Decree 491-07 (Implementing Regulations of Law 10-07), the Committee will formulate a recommendation to the country under review that it consider their enactment (see Recommendation 5.4.2 in Chapter II of this report).

[210] Third, bearing in mind that the information provided by the CGR during the on-site visit suggests that the ad honorem Coordination Committee --composed of the President of the Court of Accounts (who chairs it) and the Comptroller General of the Republic-- envisaged in Article 56(I) of the Implementing Regulations of Law 10-04 has not been holding regular meetings at three-monthly intervals as prescribed in paragraph I of that article, and taking into account the importance of that Committee for interagency coordination between the CCRD and the CGR, the Committee will formulate a recommendation in that regard to the country under review (See Recommendation 5.4.3 in Chapter II of this report).

[211] In relation to the foregoing, it is worth noting that during the on-site visit the CGR informed that the above Coordination Committee had not met during the nine months since the current administration of the CGR had taken up its duties, that the latter had notified the CCRD that it had appointed its delegation to that committee, and it was waiting for a notice of convocation from the CCRD. They also provided a summary of said Committee's meetings which noted that its last meeting took place on July 30, 2012.⁷⁷

[212] Fourth, taking into account that, according to the information concerning the CGR in the response of the country under review to the questionnaire,⁷⁸ regarding the implementation of Article 10 of Law 10-07, which envisages societal oversight, that, according to Commitment No. 14 on Open Governance, which refers to the "Implementation of a System of Societal Comptrollership," the next step is to prepare a plan of action to continue to advance said commitment, which according to information furnished by the CGR during the on-site visit is pending, the Committee will formulate a recommendation in that regard to the country under review (see Recommendation 5.4.4 in Chapter II of this report).

[213] Regarding the foregoing, it should be noted that during the on-site visit, the CGR mentioned that the main difficulty with respect to the above plan of action has been that they have encountered a certain apathy on the part of civil society organizations, which have not responded to the invitations sent to that end but which they will continue to convoke, nevertheless.

[214] Fifth, bearing in mind that, according to the 2012 Annual Report (*Memoria Institucional - Año 2012*) of the CGR,⁷⁹ the entity lacked the necessary funds to adapt its technology platform to the

⁷⁶ Available at : http://www.oas.org/juridico/pdfs/mesicic4_reptom_antley10.pdf

⁷⁷ This summary is available at:http://www.oas.org/juridico/pdfs/mesicic4_reptom_resCGR.pdf

⁷⁸ Response of the Dominican Republic concerning the CCRD, p. 14.

⁷⁹ See pp. 8 and 88 of the Annual report, which is available at:
http://www.oas.org/juridico/PDFs/mesicic4_reptom_memo.pdf

operational structure's needs and an Information Technology Strategic Plan was designed, whose implementation is pending for budgetary reasons, the Committee will formulate a recommendation to the country under review that it consider adopting appropriate measures to allocate to the CGR, within the resources available, the necessary budget funds to carry out the foregoing (see Recommendation 5.4.5 in Chapter II of this report).

[215] In relation to the foregoing, it should be mentioned that during the on-site visit the CGR reiterated that lack of financial resources has been the main difficulty and that, despite that, some progress had been made with respect to technology thanks to an IDB loan.

[216] Sixth, bearing in mind that important goals contained in the Institutional Strategic Plan 2010-2012 for meeting the strategic objectives of "Institutional Strengthening" and "Operations," such as adjusting the legal framework of the CGR to the constitutional mandate, developing the capability to perform specialized audits and forensic investigations, and training for the public sector in fraud prevention, still have activities pending or have been postponed until the next Plan, the Committee will formulate a recommendation to the country under review (see Recommendation 5.4.6 in Chapter II of this report).

[217] In relation to the foregoing, it should be noted that on the last page of the above Institutional Strategic Plan it states with respect to the goals that were postponed to the next Institutional Strategic Plan that this was due to budgetary constraints, chiefly due to a budget cut of RD\$57,880 made in 2012, a fact reiterated during the on-site visit.

[218] Seventh, bearing in mind the information provided by the CGR in the course of the on-site visit that the Institutional Strategic Plan 2013-2016 was still being drafted, and given that Article 18(6) of Law 10-07 instructs the Comptroller General the Republic to draw up a medium- and long-term strategic plan for executing the powers and functions of the CGR, the Committee will formulate a recommendation to the country under review that it expedite its preparation (see Recommendation 5.4.7 in Chapter II of this report).

[219] Eighth, bearing in mind the information provided by the CGR during the on-site visit that they need more resources to enable them to carry out their responsibilities, in particular with respect to control of the decentralized sector and municipalities, as well as to provide training to its staff and have specialized staff and better physical infrastructure, given the small size of the latter in relation to the number of its employees, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 5.4.8 in Chapter II of this report).

[220] In connection with the foregoing, it is worth noting that the Institute of Certified Public Accountants of the Dominican Republic (ICPARD), which was invited to participate in the on-site visit, said, with respect to the CGR, that the National Internal Control System has only been implemented to between 50% and 60% of its full extent and that, although the central administration has internal auditors, there is a shortage of them in the decentralized sector and municipalities.

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

[221] First, with regard to the results of the Office of the Comptroller General (CGR), in its response to the questionnaire,⁸⁰ the country under review provided information about the preparation of the Basic Standards on Internal Control [*Normas Básicas de Control Interno*] (NOBACI), which, it said, were forwarded to all State institutions governed by Law 10-07." It also provided information

⁸⁰ Response of the Dominican Republic concerning the CCRD, p. 6.

on the Institutional Code of Ethics, which, according to the response, “has been distributed to all staff, entities, and their suppliers.”

[222] Second, taking into consideration that in its response to the questionnaire the country under review did not provide other information than the above-noted in relation to results, during the on-site visit it was asked to provide compiled information on results for the last five years and the performance of its functions, in particular, regarding the following:

[223] (a) Actions carried out to “support plans and programs for preventing corruption,” a function assigned to the Comptroller General of the Republic in Article 18(15) of Law 10-07.

[224] In relation to the foregoing, during the on-site visit, representatives of the State noted that the reports on audits performed by the CGR serve to prevent corruption and that, when requested by entities, they provide support for the plans and programs adopted by the latter to that end; however, the information requested was not provided and, for that reason, the Committee will formulate a recommendation to the country under review in that regard (see Recommendation 5.4.9 in Chapter II of this report).

[225] (b) Administrative investigations carried out by the CGR under Article 14, 7 (a) and (b) of Law 10-07, which assigns it the function of conducting administrative investigations of disparities in the use and investment of public resources as well as in cases where the physical progress of public investment programs and projects does not match the financial appropriations released by the National Budget Office, and on the results of those investigations.

[226] In connection with the above, bearing in mind that the information requested was not forthcoming, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 5.4.10 in Chapter II of this report).

[227] (c) Referral by the CGR of the records of investigations it has carried out to the Public Prosecution Service when the results thereof so warrant, in keeping with Article 8 of Law 10-07, and on follow-up that it has done with respect thereto along with the results.

[228] With respect to the foregoing, bearing in mind that it was mentioned during the on-site visit that no audit reports have been sent to the Public Prosecution Service, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 5.4.11 in Chapter II of this report).

[229] (d) Resolutions establishing administrative liability issued by the Comptroller General of the Republic pursuant to Article 18(5) of Law 10-07, which assigns it the function of “issu[ing], based on legal analyses of liability and reports on evaluations and investigations, resolutions establishing administrative liability of current or former public servants and process[ing] them appropriately,” as well as on the outcome of their processing.

[230] In connection with the above, bearing in mind that the information requested was not forthcoming, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 5.4.12 in Chapter II of this report).

[231] (e) Inspections or evaluations carried out by the CGR under Article 14(2) of Law 10-07, and on recommendations to entities for improving internal control contained in the reports on the results of those evaluations, in accordance with paragraph 3 of said article, as well as on follow-up on compliance with such recommendations, for the purposes envisaged in Article 19 of Decree 491-07.

[232] In connection with the above, bearing in mind that the information requested was not forthcoming, the Committee will formulate a recommendation in that respect to the country under review (see Recommendation 5.4.13 in Chapter II of this report).

[233] (f) Penalties imposed in accordance with Article 31 of law 10-07, which provides that “any public servants who refuses to turn over information on documents or to cooperate with the Office of the Comptroller General in order to enable it to exercise the powers, authority, and functions envisaged in this law, who otherwise obstructs the work of its officials and employees or of internal auditors, or who refuses to comply with the instructions issued by the Office of the Comptroller General by his authority under this law, shall be punished with temporary suspension without pay.”

[234] With respect to the above, during the on-site visit, the Committee was told that the CGR has not had occasion to enforce the provision alluded to in the previous paragraph

5.4. Conclusions and recommendations

[235] Based on the foregoing comprehensive analysis of the Office of the Comptroller General of the Republic (CGR), the Committee offers the following conclusions and recommendations:

[236] The Dominican Republic has considered and adopted measures intended to maintain and strengthen the Office of the Comptroller General of the Republic (CGR), as an oversight body, as indicated in Chapter II, Section 5 of this report.

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

- 5.4.1 Consider reforming Law 10-07 of 2007, which created the National Internal Control System and the Office of the Comptroller General, in order to make it consistent with the provisions contained in the Constitution of 2010 concerning the CGR and internal control as well as with International Accounting Standards (IAS) (see Chapter II, Section 5.2 of this report).
- 5.4.2 Adopt the Rules of Procedure on Public Servant Liability envisaged in Article 8 of Decree 10-07 (see Chapter II, Section 5.2 of this report).
- 5.4.3 Adopt appropriate measures so that the ad honorem Coordination Committee -- composed of the President of the Court of Accounts and the Comptroller General of the Republic-- envisaged in Article 56(I) of the Implementing Regulations of Law 10-04 meets at intervals prescribed in paragraph I of that article (See Recommendation 5.4.3 in Chapter II of this report).
- 5.4.4 Adopt appropriate measures so that, in accordance with Article 10 of Law 10-07, which envisages societal oversight, a plan of action is drafted to continue to advance Commitment No. 14 on Open Governance, which refers to the “Implementation of a System of Societal Comptrollership,” and to persevere with efforts to engage civil society organizations to that end (see Chapter II, Section 5.2 of this report).
- 5.4.5 Adopt appropriate measures to allocate to the CGR, within the resources available, the necessary budget funds to adapt its technology platform to the operational structure’s needs and to implement its Information Technology Strategic Plan (see Chapter II, Section 5.2 of this report).

- 5.4.6 Adopt appropriate measures to allocate to the CGR, within the resources available, the necessary budgetary funds to carry out the activities connected with the goals in the Institutional Strategic Plan 2010-2012 that correspond to the strategic objectives of “Institutional Strengthening” and “Operations” and that are pending or have been postponed until the next Plan (see Chapter II, Section 5.2 of this report).
- 5.4.7 Adopt appropriate measures to expedite the preparation of the Institutional Strategic Plan 2013-2016 (see Chapter II, Section 5.2 of this report).
- 5.4.8 Adopt appropriate measures to allocate to the CGR, within the resources available, the necessary budget funds to carry out its responsibilities, in particular, with respect to control of the decentralized sector and municipalities, as well as for providing training to its staff and having specialized staff and better physical infrastructure (see Chapter II, Section 5.2 of this report).
- 5.4.9 Compile statistics on actions carried out to “support plans and programs for preventing corruption,” a function assigned to the Comptroller General of the Republic in Article 18(15) of Law 10-07, in order to identify challenges and recommend corrective measures (see Chapter II, Section 5.3 of this report).
- 5.4.10 Compile statistics on the number of administrative investigations carried out by the CGR pursuant to Article 11(a) and (b) of Law 10-07 and on the results of those investigations, in order to identify challenges and recommend corrective measures (see Chapter II, Section 5.3 of this report).
- 5.4.11 Conduct a study of the factors why the records of investigations carried out by the CGR have not been referred to the Public Prosecution Service in accordance with Article 8 of Law 10-07, in order to identify challenges and recommend corrective measures (see Chapter II, Section 5.3 of this report).
- 5.4.12 Compile statistics on the number of resolutions establishing administrative liability issued by the Comptroller General of the Republic pursuant to Article 18(5) of Law 10-07, as well as on the outcome of their processing, in order to identify challenges and recommend corrective measures (see Chapter II, Section 5.3 of this report).
- 5.4.13 Compile statistics on the number of inspections or evaluations carried out by the CGR under Article 14(2) of Law 10-07, and on recommendations to entities for improving internal control contained in the reports on the results of those evaluations, in accordance with paragraph 3 of said article, as well as on follow-up on compliance with such recommendations, for the purposes envisaged in Article 19 of Decree 491-07, in order to identify challenges and recommend corrective measures (see Chapter II, Section 5.3 of this report).

III. BEST PRACTICES

[238] In keeping with section V of the Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round and the Format for country reports adopted by the Committee for that round, the following describes the sound practices identified by the country under review that it has wished to share with the other member countries of the MESICIC in the belief that they could be of benefit to them:

[239] **1. Bureau of Governmental Integrity and Ethics (DIGEIG)**

[240] - “Standardized websites: All websites are required to have an accessible and user-friendly “transparency link” to provide up-to-date information to the general public and enable them to verify how the government uses public funds. Thus, ensuring that each institution has an active link will guarantee access to information, safeguarding the right to information and compliance with Law 200-04.”⁸¹

[241] 2. Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA)

[242] - “Creation of a Forensic Audit Unit: A specialized unit attached to the Investigations Department of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA). It assists investigations for the purposes of financial analyses and obtaining expert evidence.”⁸²

[243] 3. Judiciary

[244] - “Judicial Career System: The Judicial Career System, established in the Constitution of the Dominican Republic and the Judicial Career Law, governs the Judicial Career Statute and the entry, training, promotion, separation, and retirement of judges based on the principles of merit, ability, and professionalism. To be appointed a judge in the judiciary all applicants must sit an open competitive examination of merits organized through the entrance system of the National Judicature School established by the law for that purpose and have satisfactorily completed and passed the School's two-year training program. Only members of the Supreme Court of Justice who are appointed at discretion are exempt from these requirements.”⁸³

[245] 4. Office of the Comptroller General of the Republic (CGR)

[246] - “Implementation and follow-up of the National Internal Control System: The fundamental aim of the implementation and follow-up of the National Internal Control System through the adoption of the Basic Standards on Internal Control (NOBACI) is to standardize processes and controls in government entities. The NOBACI provide the frame of reference for internal control, enabling the public sector to prepare specific rules and procedures for the workings of their administration and control systems.”⁸⁴

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 ROUND⁸⁵

[247] This section of the report refers to progress, information, and new developments in the Dominican Republic 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

⁸¹ More information on the subject is available at pages 7 and 8 of the response of the Dominican Republic to the questionnaire concerning the DIGEIG.

⁸² More information on the subject is available at pages 25 and 26 of the response of the Dominican Republic to the questionnaire concerning the PEPCA.

⁸³ More information on the subject is available at pages 25 to 27 of the response of the Dominican Republic to the questionnaire concerning the judiciary.

⁸⁴ More information on the subject is available at pages 19 to 23 of the response of the Dominican Republic to the questionnaire concerning the CGR.

⁸⁵ The recommendations that, following this review, still require additional attention or have been reformulated are listed in Annex I to this report.

reports of the Second and Third Rounds,⁸⁶ 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.

[248] 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 THEM (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. Standards of conduct to prevent conflict of interest and mechanisms to enforce them

Recommendation 1.1.1:

Consider strengthening the implementation of laws and regulatory systems related to conflicts of interest, in order to permit the effective and practical enforcement of a system of public ethics.

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Strengthen the existing rules on incompatibilities and disqualifications, taking into account the following considerations, in light of the scope of legislation and the positions identified by law: - Develop other mechanisms that identify or detect supervening causes that might occur during the exercise of public functions and which might result in a conflict of interest.⁸⁷

⁸⁶ Available at: <http://www.oas.org/juridico/english/reptom.htm>

⁸⁷ Regarding this measure, in the Third Round, on September 10, 2010, the country under review reported that: “A multi-institutional team is currently working on preparing a draft bill on conflicts of interest among public officials, with a view to its submission to Congress in order to meet the provisions of the [Convention]. The Constitution of the Dominican Republic identifies a series of grounds for disqualification from holding public positions; for example, Article 135: “Ministers and Vice Ministers may not pursue any professional or commercial activity that could lead to conflicts of interest.” Articles 77, 140, and 144 also establish a series of grounds for disqualification from holding public positions. For the moment, the Law on Purchasing and Contracting (No. 340-06) and the Civil Service Law (No. 41-08) are the only statutes that deal with the disqualifications and prohibitions to which public officials are subject. For example, Article 14 of Law 340-06 stipulates that a certain group of senior officials may not seek to supply or contract with the State, including the President and Vice President of the Republic, ministers and vice ministers, legislators, judges of the judicial branch, mayors, and other high public officials and incumbents of public institutions. public officials and incumbents of public institutions. Article 80 of the Civil Service Law (No. 41-08) also lists a series of actions that public servants are banned from carrying out.” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

[249] In its response,⁸⁸ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a steps that lead it to believe that it has been satisfactorily considered:

[250] - “The Constitution of the Dominican Republic identifies a series of grounds for disqualification from holding public positions. For example, Article 135: “Ministers and Vice Ministers may not pursue any professional or commercial activity that could lead to conflicts of interest.” Articles 77, 140, and 144 also establish a series of grounds for disqualification from holding public positions.

[251] - “Although there is no specific law in the Dominican legal framework regarding conflict of interest, there are dispersed provisions, such as the Ethical and Disciplinary Standards for Public Servants (Article 80 of Law 41-08, Civil Service Law), which include prohibitions for civil servants in order to avoid situations that would constitute a conflict of interest on their part.”

[252] - “Article 14 of Law 340-06 (Government Purchasing and Contracting Law) expressly sets out the positions that are prohibited from contracting with the State and other causes of ineligibility.”

[253] - “Decree 486-12 creates the Bureau of Governmental Integrity and Ethics and makes it the governing body on conflict of interest. Work is currently underway on the preliminary draft of a conflict of interest law that would consolidate the various dispersed provisions in force in this area.”

[254] The Committee takes note of the satisfactory consideration given by the country review to measure (a) of the recommendation contained in Chapter IV, Section 1.1 of this report.

Measure (b) which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- *Consider broadening the existing rules on incompatibilities and disqualifications to applicable public servants of all public branches, including those of the Legislative, Judicial and Executive Branch and members of the oversight bodies.*⁸⁹

[255] In its response,⁹⁰ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[256] - “Among the officials whom Law 340-06 prohibits from contracting with, or being providers of, the State are the president and vice president of the Republic, senators and deputies of the Congress of the Republic, judges, members of the Court of Accounts, Central Elections Authority, municipal mayors and council members, and the Attorney General of the Republic, among others. [Law 340-06, Article 14(1)].”

⁸⁸ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 8.

⁸⁹ Regarding this measure, in the Third Round, on September 10, 2010, the country under review said, “See Article 14, *section 1, of the Purchasing and Contracting Law (No. V40-06).*” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

⁹⁰ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 9.

[257] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (b) suggested in the recommendation in Chapter IV, Section 1.1 of this report, and of the need for it to continue giving the matter its attention, given that the progress reported with regard to broadening the existing rules on incompatibilities and disqualifications only refers to one specific issue, namely, public procurement and, as noted above, a comprehensive law to strengthen the rules on incompatibilities and disqualifications has not yet been enacted since, according to information provided by the country under review, at present there is only a preliminary draft of a proposed law in this regard (see measure (b) in Section 1.1 of Annex I to this report).

Measure (c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

*- Consider removing the provisions contained in the Code of Ethics that allow the head of a public institution to employ three family members or relatives in that public institution.*⁹¹

[258] In its response,⁹² the country under review presented information and new developments with respect to the above measure, of which the Committee notes the following as a step that lead it to believe that it has been satisfactorily considered:

[259] - “Law 120-01, which created the Code of Ethics of Public Servants, was abolished by Law 41-08 (Civil Service Law), article 74 of which expressly prohibits spouses and relatives up to the third degree from working in the same institution.”

[260] With respect to the foregoing, the Committee notes that Article 104 of Law 41-08 (Civil Service Law) does indeed expressly abolish Law 120-01, which established the Code of Ethics of Public Servants, and that Article 80(15) expressly prohibits civil servants from employment in the same institution as their spouse or anyone to whom they are related by ties of blood or affinity up to and including the second degree when a hierarchical relationship exists between them.

[261] The Committee takes note of the satisfactory consideration given by the country review to measure (c) of the recommendation contained in Chapter IV, Section 1.1 of this report.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

*- Implement such measures as it deems appropriate to bring into effect the disciplinary tribunal mentioned in paragraph III of the Code of Ethics.*⁹³

⁹¹ Regarding this measure, in the Third Round, on September 10, 2010, the country under review said, “Law 120-01, on the Code of Ethics of Public Servants, was repealed by the Civil Service Law (No. 41-08). The ethical duties of civil servants are regulated by the Ethics and Disciplinary Regime (Article 77 et seq.) of the Civil Service Law.” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

⁹² Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 10.

⁹³ In the Third Round, regarding this measure on September 10, 2010, the country under review reported that: “Chapter III, Art. 81, of the Civil Service Law (No. 41-08) sets out the disciplinary regime and applicable procedure. It describes the breaches and categorizes them into three levels of severity, and it also establishes the penalties applicable to public officials who incur in them.” This information was not

[262] In its response,⁹⁴ the country under review presented the following information and new developments with respect to the above measure, which lead the Committee to consider that it is no longer pertinent:

[263] - “Law 120-01 was abolished by the Law 41-08 (Civil Service Law). Chapter III, Art. 81, of the Civil Service Law (No. 41-08) sets out the disciplinary regime and applicable procedure. It describes the breaches and categorizes them into three levels of severity, and it also establishes the penalties applicable to public officials who incur in them. A disciplinary tribunal was not created; rather, senior officials have the authority to impose such penalties through proceedings that involve the legal and human resources departments of each institution.”

[264] With respect to the foregoing, the Committee notes that Article 104 of Law 41-08 (Civil Service Law) does indeed expressly abolish Law 120-01, which established the Code of Ethics of Public Servants and envisaged a disciplinary tribunal, and that Articles 85 and 86 of the new Civil Service Law grant disciplinary authority over civil servants to their supervisors, the heads of entities, and the president of the Republic, depending on the penalty to be imposed. Therefore, the aforementioned measure, which was designed to bring into effect a tribunal that no longer exists, has ceased to be pertinent.

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Consider the possibility of incorporating into the legal system a rule that limits participation by former public servants, including those of senior rank, in situations that could involve taking undue advantage of one’s status as a former public servant, for a specified period of time and without resulting in an absolute restriction on their constitutional right to work.⁹⁵

[265] In its response,⁹⁶ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[266] - “Article 14 of Law 340-06 (Law on Purchasing and Contracting) contains a list of officials who are ineligible for government contracts, including the President and Vice President of the

analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

⁹⁴ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 12.

⁹⁵ Regarding this measure, in the Third Round, on September 10, 2010, the country under review said, “Article 135 of the new Constitution of the Dominican Republic punishes conflicts of interest in which ministers and vice ministers may incur and, in addition, it imposes other bans on public officials. “A multi-institutional team in the Dominican Republic (comprising the DPCA, the National Ethics Commission, the General Directorate of Public Contracting, and the Ministry of the Civil Service) is currently working on drafting a bill to regulate conflicts of interest in the public administration.” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

⁹⁶ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 13.

Republic, cabinet ministers and vice ministers, senators and deputies of the Congress of the Republic, and Supreme Court judges, among others. Paragraph I of this article provides that the prohibition against these officials envisaged in Article 14(1) shall stand for an additional six months after they leave office.”

[267] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (e) suggested in the recommendation in Chapter IV, Section 1.1 of this report, and of the need for it to continue giving the matter its attention, given that the progress reported with regard to restrictions for former public servants only refers to one specific issue, namely, public procurement and, as noted above, a comprehensive law to strengthen the rules on incompatibilities and disqualifications has not yet been enacted since, according to information provided by the country under review, at present there is only a preliminary draft of a proposed law in this regard (see measure (c) in Section 1.1 of Annex I to this report).

Measure f), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Compile information on cases of conflicts of interest so as to establish evaluation tools with which to verify results on this issue.

[268] In its response,⁹⁷ the country 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:

[269] - “Although Decree 486-12 grants the DIGEIG powers as the governing body on conflict of interest, as yet no non-standardized statistics on this issue in the public administration have been compiled.”

[270] The Committee takes note of the step taken by the country under review to move ahead with implementation of measure (f) of the recommendation in Chapter IV, Section 1.1 of this report, and of the need for it to continue giving the matter its attention, given that, as the country under review notes in its response, although Decree 486-12 has been issued, the information referred to therein has not yet been compiled (see measure (d) in Section 1.1 of Annex I to this report).

1.2. Standards of conduct and mechanisms for ensuring the conservation and proper use of resources entrusted to public officials

Recommendation 1.2.1:

[271] This recommendation was satisfactorily considered and, therefore, does not require additional attention.

Recommendations that require further attention under the terms provided in the reports from the Second and Third Rounds:

Recommendation 1.2.2:

- Strengthen the operating capacity of the Office of the Comptroller General of the Republic and the DPCA so that they can surmount the obstacles that presently hinder the processing of a

⁹⁷ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 14.

greater number of audits and from fully discharging their powers in that regard under Articles 22 to 24 of Accounting Law No. 3894.

[272] In its response,⁹⁸ the country under review notes with respect to the above recommendation that both the Office of the Comptroller General and the Office of the Special Attorney to Prosecute Corruption in Public Administration (formerly the DPCA) are oversight bodies that have been individually evaluated in the questionnaire for the Fourth Round and that, therefore, the institutional advances will be addressed in the chapter of the questionnaire dealing with those bodies.

[273] Given that Chapter II of this report contains a detailed and updated analysis regarding the high-level oversight bodies referred to in connection with the aforementioned recommendation, the Committee reaffirms what was stated in that Chapter regarding each of those bodies and, therefore, deems that the above-transcribed Recommendation 1.2.2 in Chapter IV, Section 1.2 of this report is no longer relevant.

Recommendation 1.2.3:

- Strengthen the operating capacity of the General Bureau of National Property, in order for it to fully discharge its responsibilities under the law with regard to the creation and maintenance of an inventory of real and personal property. As well, promote measures that, among other things, prevent that the development of the functions of this Bureau depends on the discretion of its Director or any other official.

[274] In its response,⁹⁹ the country under review notes with respect to the above recommendation that the General Bureau of National Property is a public institution created by Law 1832 that shall be under the leadership of a director general and its functions are to keep a current register of the state's movable and real property, and it includes a reference to its website as a source for further information: <http://www.bn.gov.do/>

[275] The Committee notes the need for the country under review to give further attention to recommendation 1.2.3 in Chapter IV, Section 1.2 of this report, bearing in mind that it was unable to access information by which to determine if the operating capacity of the General Bureau Of National Property has been strengthened in accordance with said recommendation (see Recommendation 1.2.1 in Section 1.2 of Annex I to this report).

[276] With respect to the foregoing, it should be noted that during the on-site visit no representatives of the General Bureau of National Property made themselves present, despite a panel for that purpose having been scheduled on the agenda for the visit.

[277] It is also worth noting that the Institute of Certified Public Accountants of the Dominican Republic (ICPARD), which was invited to participate in the on-site visit, mentioned with respect to the General Bureau of National Property that this entity has not kept the national property registry system up-to-date and, therefore, it does not include a record of all of the state's assets, some of which are in the name of private individuals because, in spite of judgments having been issued ordering their transfer to the State, the respective record has not been made. It also indicated that the 60% of records have yet to be digitized; progress has been made at the central administration level, but not at autonomous entities and municipalities.

⁹⁸ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 15.

⁹⁹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 16.

Recommendation 1.2.4:

Continue and improve the work of the General Accounting Office with respect to the organization of State accounting, ensuring that it has the material and human resources necessary to perform its work.

[278] In its response,¹⁰⁰ the country under review notes with respect to the above recommendation that the mission of the General Accounting Office is to administer a single uniform accounting system for the entire public sector by means of standards and procedures for recording all financial acts, with the aim of producing objective, integrated information for the purposes of accountability, strengthening transparency, and efficient management. It also said that more information was available on its website: <http://www.digecog.gov.do/>

[279] During the on-site visit, the Director General of Accounting mentioned that at present they are in a position to perform their functions with the resources to hand but that steps are being taken to increase them because they are on the point of implementing the International Accounting Standards (IAS) and the catalog of accounts will encompass more institutions, with the result that they will need additional resources from 2014 onward.

[280] The Committee takes note of the steps taken by the country under review to move ahead with implementation of recommendation 1.2.4 in Chapter IV, Section 1.2 of this report, and of the need for it to continue giving the matter its attention, given that the increased resources that the General Accounting Office will need as a result of implementing the International Accounting Standards (IAS) have not yet been secured (see Recommendation 1.2.2 in Section 1.2 of Annex I to this report).

[281] It is also worth noting that the Institute of Certified Public Accountants of the Dominican Republic (ICPARD), which was invited to participate in the on-site visit, mentioned with respect to the General Accounting Office that this entity, which was created by Law 126-01, has a small budget.

Recommendation 1.2.5:

- Continue to take measures to recover, preserve and guarantee proper use of public resources, such as the measures being taken by the Dominican Agrarian Institute, the Department for the Prevention of Corruption in Government, the Secretary of State for Education and the Technical Office for Ground Transportation.

[282] In its response, the country under review did not provide information on the above recommendation. Therefore, the Committee notes the need for it to give additional attention to this recommendation. At the same time, it also considers it appropriate to reformulate it with respect to the DPCA, given that Chapter II, Section 2 of this report contains a comprehensive analysis of the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) (as the DPCA was known prior to the adoption of Resolution No. 003 of February 13, 2013), which it welcomes. Consequently, the Committee would like to reformulate Recommendation 1.2.5 in Chapter IV, Section 1.2 of this report as follows (see Recommendation 1.2.3 in Section 1.2 of Annex I to this report).

¹⁰⁰ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 17.

[283] *Continue to take measures to recover, preserve and guarantee proper use of public resources, such as the measures being taken by the Dominican Agrarian Institute, the Secretary of State for Education, and the Technical Office for Ground Transportation.*

1.3. Measures and systems requiring public officials to report acts of corruption in the performance of public functions of which they are aware to the appropriate authorities

Recommendation 1.3.1:

Consider strengthening existing mechanisms requiring public servants to report to the appropriate authorities any acts of corruption in the public service of which they are aware.

Sole measure suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Examine the possibility of implementing provisions and measures that enable public servants to file complaints via administrative channels, by creating a unit within each government institution charged with receiving, investigating and following-up on complaints, or by creating a national institution charged with those same functions. It might also consider the possibility of expanding the scope of the complaints beyond conduct classified in law as crimes, to include those that constitute breaches of administrative standards and provisions, and which are aimed at preserving trust in the integrity of public officials and government.¹⁰¹

[284] In its response,¹⁰² the country under review presented information and new developments with respect to the above measure, of which the Committee notes the following as a step that leads it to believe that it has been satisfactorily considered:

[285] - “Decree 486-12, which created the Bureau of Governmental Integrity and Ethics, accords it, inter alia, the function of receiving complaints about alleged acts by public officials in breach of administrative provisions, in particular, those of the disciplinary regime and conflict of interest. In this connection, the DIGEIG provides citizens with a complaints form that can be downloaded at the webpage <http://digeig.gob.do/trans/file/InstrumentodeRecepciondeDenuncias.docx>. - For more information about this service, visit <http://digeig.gob.do/trans/p/u/servicios-al-publico-1/>.”

[286] In relation to the foregoing, the Committee notes that Article 6(19) and (20) of Decree 486-12, which created the DIGEIG, assign its responsibilities in the area of reception and investigation of complaints of alleged violations of the ethical and disciplinary regulations and that it also has the aforementioned mechanisms to facilitate lodging such complaints.

¹⁰¹ In the Third Round, regarding this measure on September 10, 2010, the country under review reported that: “*Since the year 2006 there has been a bill for the Law to Protect Those Who Report Acts of Corruption, which protects good-faith citizens and public officials who report acts of corruption of which they become aware. Regrettably, this legislative initiative has not been passed or debated by Congress, in spite of the insistence of agencies such as the DPCA and the National Ethics and Anticorruption Commission.*” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

¹⁰² Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 10.

[287] In addition, regarding the information provided by the country under review in its response to the questionnaire in the Third Round to the effect that there is a proposed Law to Protect Those Who Report Acts of Corruption before Congress, the Committee considers that as this subject was analyzed in the second round, in which concrete recommendations were made to the country under review regarding whistleblower protection, it is unnecessary to express its opinion in that regard in this report .

[288] The Committee takes note of the satisfactory consideration given by the country under review of the sole measure of Recommendation 1.3.1 contained in Chapter IV, Section 1.3 of this report.

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

Recommendation:

Consider improving the systems for supervising and evaluating the contents of declarations of income, assets and liabilities, and regulate their publication.

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Take the decisions necessary so that the obligation to file declarations of income, assets and liabilities and the mechanisms for effective enforcement of that obligation can be extended to include other public servants in posts that, by their nature, should be included because of the degree of responsibility required in the performance of those functions. Consider the possibility of establishing –either in lieu of or in addition to the list of specific posts- general criteria that serve to identify those posts even when the organizational structure of government undergoes modification.

[289] In its response,¹⁰³ the country under review did not supply information different to that which the Committee reviewed in the First Round with respect to the preceding measure, which refers to Law 82 of 1979. Therefore, the Committee notes the need for it to continue to give its attention to this measure and, in that regard, bearing in mind that Article 3 of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions*¹⁰⁴ approved by the Committee contains, in its last paragraph, a rule that would allow

¹⁰³ The response of the Dominican Republic to the questionnaire concerning follow-up to recommendations from the First Round (p. 21) says, “Law 82 of 1979 introduced the obligation to file declarations of income, assets and liabilities for a list of officials, including the President and Vice President of the Republic, senators and deputies, ministers and vice ministers, mayors, judges, and representatives of the public prosecution service among other senior civil servants (Law 82-79, Article 2). *Article 3 provides that the inventory of net worth shall include the movable and real property of the declarant, as well as their assets and liabilities. The procedure set forth in Article 4 requires the obligated official to deposit their inventory of net worth with the National Treasury which, in turn, forwards a copy to the Office of the Attorney General. Those copies shall be made available to third parties upon request.*”

¹⁰⁴ That Model Law was the result of an extensive consultation process carried out in the framework of a cooperation program developed by the OAS General Secretariat, through the Department of Legal Cooperation of the Secretariat for Legal Affairs in its capacity as Technical Secretariat of the MESICIC, which, with the support of an international consultant in drafting the first version, was discussed at a workshop held in Buenos Aires in May 2011, with the participation of officials from Argentina, Brazil, Chile, Colombia , Spain, the United States and Mexico, as well as the World Bank. The results of this

the competent authority to establish general criteria for determining the scope of the employment categories set as regards the obligated entities required to lodge statements, which would be of use to the State under review, the Committee considers it appropriate to reformulate this measure as follows (see measure (a) in section 2 of Annex I to this report):

[290] *Consider the possibility of complementing Law No. 82 of 1979, as regards those public officials required to file sworn statements of assets, by providing that the competent authority may establish general criteria for determining the scope of the categories established therein, as proposed by Article 3 of the Model Law on the Declaration of Interests, Income, Assets, and Liabilities of Persons Performing Public Functions.*¹⁰⁵

Measure (b) which requires further attention under the terms provided in the reports from the Second and Third Rounds:

*- Improve the efforts aimed at the implementation of a register of public servants who are obliged to file sworn declarations of income, assets and liabilities, while also providing mechanisms by which to periodically update those lists, so as to facilitate the administration and management of those declarations.*¹⁰⁶

[291] In its response,¹⁰⁷ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[292] - “One of the mandates of the DIGEIG is to follow up on public servants' compliance with their obligation to file sworn declarations of assets. Accordingly, it has drawn up a list of obligated officials in order to verify the level of compliance. In addition there is a list used by the Office of the Special Attorney to Prosecute Corruption in Public Administration, which manages the automated system for receiving sworn statements of assets pursuant to Decree 287-06.”

[293] During the on-site visit, the DIGEIG mentioned the need for a comprehensive list of public servants required to file sworn declarations of income, assets, and liabilities, and that the Treasury (*Tesorería General de la República*) would be the entity charged with preparing it, bearing in mind its responsibilities in the area.

workshop were presented at the Second Conference on the Progress and Challenges in Hemispheric Cooperation against Corruption, held in Cali, Colombia, in June the same year. The Model Law was later brought to the consideration of the members of the Committee of Experts of the MESICIC and civil society organizations for their comments and observations, which are incorporated in this latest version and endorsed by the Committee, at the March 22, 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. P. For further information, see: http://www.oas.org/juridico/PDFs/model_law_declaration.pdf

¹⁰⁵ Text available at: http://www.oas.org/juridico/PDFs/ley_modelo_declaracion.pdf

¹⁰⁶ In the Third Round, regarding this measure on September 10, 2010, the country under review reported that: “*The current automated system for receiving sworn statements of assets contains a list of the positions and functions of the officials required to do so by the current Law 82-79.*” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

¹⁰⁷ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 22.

[294] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (b) suggested in recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for it to continue giving the matter its attention, given that the comprehensive list or register of public servants who are obliged to file sworn declarations of income, assets and liabilities has not yet materialized (see measure (b) in Section 2 of Annex I to this report).

Measure (c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Complement the rules on the content of public servants' sworn declarations of income, assets and liabilities so that those statements include a description of the nature or characteristics of the properties which the public servant must itemize on the list of his property, assets and liabilities, and establish the criteria by which to determine their economic value.

[295] In its response,¹⁰⁸ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[296] "The virtual form by which public servants obligated by Law 82-79 file their sworn declarations of assets contains fields in which officials are required to provide information concerning their net worth. Inter alia, these fields include: • Movable and real property; • Cash and securities on hand; • Company stocks and shares; • Agricultural and livestock output; • Shares in undivided estates; • Data on their spouse. This automated system for receiving sworn statements of assets was created by Decree 287-06 and is managed by the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA). Using this online system, the public servant requests an access password from the system administrators, accesses the website, completes the sworn declaration form, prints it, has it legalized by a notary public, and deposits the original with the National Treasury, in accordance with Law 82-79."

[297] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (c) suggested in the recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for it to continue giving the matter its attention, given that the complementary rules regarding the content of the declaration, including a sufficiently detailed description of the nature or characteristics of the properties to be disclosed and the criteria by which to determine their economic value have not yet materialized. Therefore, bearing in mind that Articles 5 and 6 of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions* approved by the Committee contain a detailed description of the income, assets and liabilities to be declared by obligated persons and their families, the Committee believes it appropriate to reformulate the measure as follows (see measure (c) in Section 2 of Annex I to this report).

[298] *Complement the rules on the content of public servants' sworn declarations of income, assets and liabilities so that those statements include a description of the nature or characteristics of the properties which the public servant must itemize on the list of his property, assets and liabilities, bearing in mind Articles 5 and 6 of the "Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions," and establish the criteria by which to determine their economic value.*

¹⁰⁸ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 23.

[299] It is also worth noting that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, mentioned the following: “The sworn declarations of assets do not include descriptions of declarants’ assets and imprecise data is recorded therein, a far cry from the transparency with which it was intended to imbue those declarations.”

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Implement a system for the declaration of property, assets and liabilities designed to detect, avoid and punish conflicts of interest and cases of illicit enrichment or other illicit acts expressly setting forth this objective in the provisions regulating this subject.

[300] In its response,¹⁰⁹ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

[301] - “As a complement to the sworn declaration of assets, Decree 486-12, which creates the Bureau of Governmental Integrity and Ethics, introduces at articles 7 and 8 the requirement for obligated officials (of the executive branch) to submit an annual financial report.”

[302] The Committee takes note of the step taken by the country under review to move ahead with implementation of measure (d) suggested in recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for it to continue giving the matter its attention, given that the scope of coverage limited to obligated officials of the executive branch to which the requirement to submit the annual financial report envisaged in Articles 7 and 8 of Decree 486-12 is confined and the fact that the rules regarding the declaration of income, assets and liabilities do not yet expressly state that the declaration seeks the objectives referred to in said measure. In that regard, bearing in mind that Article 1 of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions* approved by the MESICIC Committee of Experts refers to the purposes of detecting and verifying significant and unjustified changes in assets and of detecting and preventing conflict of interests, the Committee believes it appropriate to reformulate measure (d) of the above recommendation as follows (see measure (d) in Section 2 of Annex I to this report):

[303] Implement a system for the declaration of income, assets and liabilities designed to detect and identify significant and unjustified changes in assets, and to detect and prevent conflict of interests, expressly setting out those objectives in the standards governing such matters, taking into account Article 1 of the “Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions.”

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Consider the advisability of requiring a sworn declaration of property, income, assets and liabilities, including a detailed description of the income, assets and liabilities of the spouse, those that are community property shared with the spouse or partner, and the income, assets and liabilities of dependents, at times other than those already prescribed by law, establishing reasonable time periods to update those declarations or spelling out the circumstances in which a mandatory declaration is advisable.

¹⁰⁹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 24.

[304] In its response,¹¹⁰ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[305] - “The current sworn declaration of assets form includes financial information about the spouse. The Office of the Special Attorney to Prosecute Corruption in Public Administration is the agency responsible for making available the sworn declarations of assets of obligated officials to third parties.”

[306] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (e) suggested in the recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for the it to continue to give the matter its attention, in particular as regards occasions for filing or updating the declaration, taking into account, with respect to the inclusion of a detailed description of the relevant income, assets and liabilities of those mentioned in the measure, that the Committee, in reformulating measure (c) of the above recommendation in this report, made a reference to Articles 5 and 6 of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions* approved by the Committee, which contain a detailed description of the income, assets and liabilities to be declared by obligated persons and their families. Bearing in mind, moreover, that the Model Law also contains, at Article 4, provisions on the occasion for filing and updating the declaration, believes that it would be advisable to reformulate measure (d) of the above recommendation as follows (see measure (d) of recommendation 2.1 in Section 2 of Annex I to this report):

[307] *Consider the possibility of amending the content of the provisions in Law No. 82 of 1979 concerning the occasion for filing the sworn declaration of assets, taking into account Article 4 of the “Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions.”*

Measure f), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

Specify, within the legal framework related to this topic, the office, organ or agency that will handle these declarations, ensuring that it has the material and human resources necessary to process them efficiently.

[308] In its response,¹¹¹ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[309] - “Law 82-79 designates the National Treasury as the body responsible for receiving original sworn declarations of assets, and the Office of the Attorney General as the repository for the copies of those declarations to be made available to third parties. In support of this law, the executive branch created the automated system for receiving sworn statements of assets and, through Decree 287-06, delegated management of this system to the Office of the Special Attorney to Prosecute Corruption in Public Administration. The system provides access for obligated officials to an online form

¹¹⁰ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 25.

¹¹¹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, pp. 26 and 27.

indicating what information about their net worth they should include in their declaration, which they then print, have legalized by a notary and, finally, deposit with the National Treasury in accordance with Law 82-79. In this way, a copy of the declaration is recorded in the system of the Attorney General's Office, enabling compliance with the provisions of the law.”

[310] With regard to the foregoing, it should be noted, furthermore, that Article 6(31) and (32) of Decree 486-12 assigned the Bureau of Governmental Integrity and Ethics (DIGEIG) the functions of monitoring and coordinating the deposit of sworn declarations of assets with the National Treasury or the appropriate institution, by government officials legally required to do so, through their respective institutions; and of enforcing the filing of the sworn declarations of assets by obligated persons who fail to comply with the legal mandate to do so, as well as recommending the appropriate penalties.

[311] The Committee takes note of the satisfactory consideration given by the country under review to measure (f) of recommendation 2.1 in Chapter IV, Section 2 of this report.

Measure (g) suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Establish systems for the effective and efficient verification of the contents of the sworn declaration of wealth, income, assets and liabilities, establishing the deadlines and filing times; strengthening the authorities that the office, entity or organ in charge of operating this system has for scheduling verifications, ensuring that the verification applies to a representative number of declarations, and establishing actions to overcome obstacles to required sources of information; and take the necessary decisions to ensure cooperation between that office or agency and other sectors, such as the financial and taxation authorities, to facilitate the exchange of information for verifying the contents of these declarations.

[312] In its response,¹¹² and during the on-site visit, the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[313] - “The PEPCA has signed agreements with several institutions, including the Court of Accounts, the General Directorate of Internal Revenue, and the National Land Registry (*Catastro Nacional*) in order to set down cooperation protocols to verify the accuracy of sworn declarations of assets of civil servants in the event of an investigation. In addition, to strengthen that verification, the DIGEIG is working to implement a financial report that obligated officials will be required to complete on an annual basis, as a way of updating their sworn declarations of assets (Articles 7 and 8 of Decree 486-12).”

[314] During the on-site visit, the DIGEIG reported that the annual financial report was ready and provided a digital version of it.¹¹³ It also said that they were conducting consultations on whether or not to lift banking secrecy for verifying the contents of those financial reports. A copy of DIGEIG resolution 2-13 on that financial report was also provided.¹¹⁴

¹¹² Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 28.

¹¹³ Available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_form.pdf

¹¹⁴ Available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_res2.pdf

[315] In the course of the on-site visit, the Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA) also reported that it performs the role of “database” for the sworn declaration of assets system and follow-up on their contents, that they do not at present have a structure for that but that based on the annual financial reports it will be possible to identify increases in net worth, which may be used as evidence in the relevant proceedings, and that by law it is not necessary to corroborate the veracity of the contents of declarations.”

[316] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (g) suggested in recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for the it to continue giving the matter its attention, given that a system by which to verify the contents of sworn declarations of assets and to analyze those contents in order to detect and identify significant and unjustified changes in assets and detect and prevent conflict of interests has not yet been implemented. In that regard, bearing in mind that Chapters IV and V of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions* approved by the Committee contain provisions on procedures to verify the information supplied in declarations and to detect changes in assets and conflict of interests, the Committee believes it appropriate to reformulate measure (g) of the above recommendation as follows (see measure (f) in Section 2 of Annex I to this report):

[317] *Introduce systems to verify the contents of sworn declarations of assets and to analyze said contents, in order to detect and identify significant and unjustified changes in assets, and to detect and prevent conflict of interests, taking into account Chapters IV and V of the “Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions.”*

[318] It is also worth noting that the Institute of Certified Public Accountants of the Dominican Republic (ICPARD), which was invited to participate in the on-site visit, mentioned that the sworn declaration of assets system is governed by an old law that needs reform and that there is no guarantee of the accuracy of the contents of those declarations since the notaries public authenticating them are unable to verify their contents. Therefore, the ICPARD considers that the law should state that those contents should be certified by a public accountant.

Measure (h) suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Expand the existing system of sanctions and penalties applicable to those public servants who violate the standards; including situations which give rise to its application, such as late filing of declarations or the omission of information; and establish additional sanctions – over and above those already prescribed- to ensure effective compliance with the rule requiring the filing of declarations, including fines or financial penalties, as well as a ban on reentry into public service, in the case of former public officials who fail to comply with the established filing obligations after leaving office.

[319] In its response,¹¹⁵ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

¹¹⁵ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, pp. 28 and 29.

[320] - “Law 82-79, which governs sworn declarations of assets, establishes weak administrative penalties (withholding of pay), whose implementation has enjoyed little success in practice. No connection, a bill was drafted establishing criminal penalties and criminalizing illicit enrichment, but Congress has yet to pass it.”

[321] The Committee takes note of the step taken by the country under review to move ahead with implementation of measure (g) suggested in recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for it to continue giving the matter its attention, given that said step concerns a bill that Congress has not yet passed into law establishing the aforementioned penalties. In that regard, bearing in mind that Chapter VIII of the *Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions* approved by the Committee contains provisions on administrative and criminal penalties for breach of obligations in connection with sworn declarations of assets, the Committee believes it appropriate to reformulate measure (h) of the above recommendation as follows (see measure (g) in Section 2 of Annex I to this report):

[322] *Expand the existing system of sanctions and penalties for violation of obligations in connection with sworn declarations of assets, taking into account Chapter VIII of the “Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions.”*

[323] It is also worth noting that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, mentioned the following: a bill on sworn declarations of assets and illicit enrichment has been submitted to Congress for the sixth time; it has passed the Senate five times, but not met with the same support in the House of Deputies, evincing a serious flaw on the part of the latter house. The bill contains details about the real property and other elements comprising the inventoried assets that have to be included in the sworn declaration, including a physical description of the latter. This information would enable proper identification of each asset, its location, date of purchase, information about the seller, and the price paid for it. At present the bill is before the House of Deputies' Ethics Committee.”

Measure (i) suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Regulate the conditions, procedures and other relevant aspects regarding publication, when necessary, of the declarations of income, assets and liabilities, subject to the Constitution and the basic principles of the Dominican Republic’s legal system.

[324] In its response,¹¹⁶ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[325] - “Both the sworn declaration of assets, and the financial information are of a public nature, a fact recognized by Law 82-79 as well as Decrees 287-06 and 486-12 which relate to such matters. Law 200-04 on freedom of access to public information includes sworn declarations of assets, where appropriate, among the information that the institutions subject to this general statute have an obligation to make available. The website of the Office of the Attorney General www.pgr.gob.do, makes available a copy of the sworn declaration of assets of obligated officials under the link *Transparencia* (Transparency).”

¹¹⁶ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 30.

[326] The Committee takes note of the satisfactory consideration given by the country under review to measure (i) of recommendation 2.1 in Chapter IV, Section 2 of this report.

Measure (j) suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

*- Implement programs to train public servants on the provisions governing application of the system of declarations of income, assets and liabilities; and design and introduce mechanisms to disseminate the system among the public servants who are required to enforce compliance with the obligation, in order to ensure that they are thoroughly familiar with the existing standards.*¹¹⁷

[327] In its response,¹¹⁸ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

[328] - “In 2010 and 2011, the National Council for State Reform (CONARE), through its Laws Observatory program, imparted a series of information courses and workshops for public servants on sworn declarations of assets and the procedures for compliance.”

[329] The Committee was unable to obtain more detailed information about those courses because, as it was informed during the on-site visit, CONARE was dissolved.

[330] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (j) suggested in recommendation 2.1 in Chapter IV, Section 2 of this report, and of the need for it to continue giving the matter its attention, given that the training imparted by CONARE, which has itself been dissolved, took place in 2010 and 2011, and that since then important provisions regarding sworn declarations of assets have been adopted, such as those contained in Article 7 of Decree 486-12, concerning the obligation to submit an annual financial report, and DIGEIG resolution 2-2013, which governs that obligation (see measure (h) in Section 2 of Annex I to this report).

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

Recommendation:

¹¹⁷ In the Third Round, regarding this measure, on September 10, 2010, the country under review reported that: “*The Dominican Republic’s Law No. 82 of 1979 requires a group of senior public officials from the different branches of government to submit sworn statements of assets upon assuming and upon leaving their positions. To complement this law, the executive branch issued Decree 287-06, which establishes the automated system for receiving sworn statements of assets through which civil servants may submit their statements over the web (www.declaracionjurada.gov.do). This automated system contains a list of the positions and functions of the officials required to do so by the current Law 82-79. Among the assets to be declared, the form has lines for cash in bank accounts, real estate, movable property, motor vehicles, rural properties, agricultural products, heads of cattle, accounts receivable, income, and loans. It also requires the civil servant making the statement to include a report of his or her spouse’s assets.*” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

¹¹⁸ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 31.

Strengthen the Office of the Comptroller General and the Attorney General's Office as oversight bodies, to ensure that they are able to effectively perform their functions related to matters addressed by Article III, paragraphs 1, 2, 4 and 11 of the Convention; endow them with the resources needed to discharge their functions, while also endeavoring to ensure that they enjoy greater support; and establish mechanisms for effective institutional coordination of their activities, as appropriate, and for their continuous evaluation and follow-up.

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Appoint the Ombudsman, taking into account the importance of the prerogatives and independence that Law No. 19-01 gives to this office to protect citizens' rights and to ensure that the public administration functions properly.

[331] In its response,¹¹⁹ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

[332] - "In May 2013, the Senate chose Zoila Martínez Guante as Ombudsman, in keeping with the procedure envisaged in the Constitution. To date, the entity has not established its domicile, organizational structure, or rules of procedure."

[333] The Committee takes note of the step taken by the country under review to move ahead with implementation of measure (a) suggested in recommendation 3 in Chapter IV, Section 3 of this report, and of the need for it to continue giving the matter its attention, given its comments in the preceding paragraph regarding the Ombudsman that it "has not established its domicile, organizational structure, or rules procedure." In that connection, the Committee believes it appropriate to reformulate the measure as follows (see sole measure of the recommendation in Section 3 of Annex I to this report):

[334] Adopt appropriate measures for the Ombudsman to have the organizational structure, regulatory standards and resources it needs to perform properly in full its functions under Law 19-01 to protect citizens' rights and to ensure that the public administration functions properly.

Measure (b) which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Push for the measures deemed necessary to foster the effectiveness of the functions the Attorney General's Office discharges in receiving and following up on complaints relating to effective compliance with the provisions of paragraphs 1, 2, 4 and 11 of Article III of the Convention.

[335] In its response,¹²⁰ the country under review says with regard to the preceding recommendation, "We do not understand the recommendation as there is no Attorney General's Office [*Fiscalía General*] in the Dominican State. Prosecution units, as entities of the Public Prosecution Service [*Ministerio Público*], are responsible for pursuing criminal actions before the criminal courts of first instance. This recommendation needs to be reviewed, in our opinion."

¹¹⁹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 32.

¹²⁰ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 33.

[336] Bearing in mind the comments of the country under review in the preceding paragraph, and considering that, indeed, there is no Attorney General's Office [*Fiscalía General*] in the Dominican Republic, the Committee finds that measure (b) of recommendation 3 in Chapter IV, Section 3 of this report is not pertinent.

Measure (c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Promote greater functional, administrative and budgetary independence, with respect to the functions performed by the Office of the Comptroller General of the Republic and the Court of Accounts. Among the measures that should be considered are those intended to guarantee an appointments system over which the executive branch has little or no influence, as a means to ensure that these offices will be more impartial when auditing and controlling public funds.

[337] In its response,¹²¹ the country under review makes the following comments regarding the foregoing recommendation:

[338] "The Court of Accounts and the Office of the Comptroller General are oversight bodies that will be individually analyzed in this report. It should be pointed out that since the Office of the Comptroller General is the internal control organ of the executive branch by constitutional mandate, its nature implies that its occupant is appointed by the executive branch (the president of the Republic). In that regard, the Constitution provides that the members of the Court of Accounts shall be chosen by the Senate from shortlists of three candidates submitted by the House of Deputies. In our opinion, the wording of this recommendation needs to be reviewed as it is not consistent with Dominican constitutional principles."

[339] In light of the comments made by the State under review in the previous paragraph and also bearing in mind that the 2010 Constitution, which was adopted subsequent to the recommendation in question, envisions the Office of the Comptroller General of the Republic as the internal oversight agency of the executive branch (Article 247) and the Chamber of Accounts as the superior external oversight body (Article 248), the Committee considers that measure (c) of recommendation 3 in section 3, Chapter IV of this report, transcribed above, is no longer valid, and it therefore refers to the updated and detailed analysis offered with respect to each of those agencies in Chapter II of this report.

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Adopt such measures as it deems appropriate to establish a competent body responsible for the prevention and investigation of corruption.

[340] In its response,¹²² the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

¹²¹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 34.

¹²² Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 35.

[341] - “The investigation of criminal offenses involving acts of corruption is the responsibility of the Office of the Special Attorney to Prosecute Corruption in Public Administration, which was created by Public Prosecution Service Council resolution 03-2013. (The Office previously existed as the Department for Prevention of Corruption, created by Decrees 324-07 and 322-97). The body responsible for managing prevention of corruption overall, establishing policies on transparency, and the receipt of complaints is the Bureau of Governmental Integrity and Ethics (DIGEIG), which performs the functions of the National Committee on Ethics and Fight against Corruption.”

[342] In relation to the foregoing, the Committee notes that, inter alia, Article 6 (3-7), (9) and (18) of Decree 486-12, which created the DIGEIG, assign its responsibilities in the area of prevention of corruption, as outlined in Chapter II, Section 1 of this report.

[343] The Committee takes note of the satisfactory consideration given by the country under review to measure (d) of recommendation 3 in Chapter IV, Section 3 of this report.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ART. III, PARAGRAPH 11)

4.1. General participation mechanisms

[344] The Committee did not formulate any recommendations in this section.

4.2. Mechanisms for access to information

Recommendation 4.2.1:

Consider moving forward on the implementation of the General Freedom of Public Information Act.

Sole measure suggested by the Committee that requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Assign public funds to ensure the proper application of Law No. 200-04 and that, inter alia, make it possible to: i) create the bodies provided for in that law, endowing them with the human, technical and financial resources they need to function properly; ii) make the public aware of the system and services offered, by creating and using an internal organization for which no provision has been made thus far; iii) comply with the obligation incumbent upon all centralized and decentralized public agencies of the State to publish their Web pages, so as to widely publicize the business of government; and iv) create and put into operation centers where information can be shared with clients or users and their needs addressed.

[345] In its response,¹²³ and during the on-site visit, the country under review presented information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[346] - “Decree 486-12 creates the Bureau of Governmental Integrity and Ethics and grants it powers as the governing body for the enforcement of Law 200-04 on Freedom of Access to Public Information and its implementing regulations. In that regard, the institution has a Department of

¹²³ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, pp. 36 and 37.

Public Information which is in charge of following up on the opening of new Public Information Offices, training access to information officers, and managing statistics on the subject. By Resolution 1-2013, the DIGEIG established the type of standardized information that central government institutions are required to publish on their websites.”

[347] - “To date, 136 access to information offices have been opened across the country. The DIGEIG also provides guidance and training to public information officers at different institutions as well as on queries concerning information requests that public institutions subject to the provisions of Law 200-04 receive.”

[348] During the on-site visit, the DIGEIG supplied more recent information about the foregoing, indicating that, so far, 195 public information offices have been opened and that goal is to reach 209. It also said that the aim in 2014 is to focus follow-up on public information requests through a single channel in order to monitor compliance with statutory time limits. It also provided a copy of DIGEIG Resolution 2-12,¹²⁴ which instructs all central government and decentralized public sector institutions to set up these offices as per the public sector-wide uniform organizational structure outlined by the Ministry of Public Administration; the Bureau also supplied a copy of DIGEIG Resolution 1-13,¹²⁵ which concerns standardization of the minimum information to be provided by centralized and decentralized government bodies and the provision of a permanent, up-to-date information service in accordance with Articles 3, 4, and 5 of Law 200-04 and 21 of its implementing regulations (Decree 130-05). In that regard, it reported that of 183 institutions, 85 have standardized the information available on their websites, in keeping with that resolution.

[349] The Committee also notes that among the functions that Article 6 of Decree 486-12 assigns the DIGEIG are the following, which have to do with its status as the governing body on access to public information pursuant to Article 5 of said decree: to keep a record of public information offices and to develop an advisory plan for implementing those yet to be created or that are not yet operational (paragraph 14); to supervise officials in order to ensure that they provide the information requested by members of the public within the prescribed time limits (paragraph 33); ensure that institutions publicize information that is freely accessible based on a culture of transparency and as the law provides (paragraph 34); to take cognizance of hierarchical appeals lodged for refusal to release requested information and avoid, where possible, recourse to judicial mechanisms that entail investment in terms of resources and time as well as specialized technical analysis (paragraph 35); to coordinate implementation and development of themes concerning access to information as well as supervision and control of entities required to offer that service (paragraph 40); and to help ensure standardization of the information provided on government institutions' websites within prescribed time limits (paragraph 41).

[350] With respect to paragraphs (i) and (ii) of the sole measure suggested in recommendation 4.2.1 in Chapter IV, Section 4.2 of this report, the Committee believes it appropriate to take into account that Chapter II, Section 1 of this report contains a comprehensive analysis of the DIGEIG, which included the aspects envisaged in those paragraphs . Therefore, it reaffirms what was said in that chapter with regard to those aspects.

[351] With respect to paragraphs (iii) and (iv) of the sole measure suggested in recommendation 4.2.1 in Chapter IV, Section 4.2 of this report, the Committee takes note of the steps taken by the country under review to move ahead with their implementation and of the need for it to continue

¹²⁴ Available at: http://www.oas.org/juridico/pdfs/mesicic4_reptom_res22012.pdf

¹²⁵ Available at: http://www.oas.org/juridico/PDFs/mesicic4_reptom_res1.pdf

giving the matter its attention, given that all the centralized and decentralized public-sector agencies required to open public information offices and to standardize the information on their websites have done so. In that connection, the Committee believes it appropriate to reformulate the measure as follows (see sole measure of recommendation 4.2.1 in Section 4.2 of Annex I to this report):

[352] *Ensure that public-sector agencies required to open public information offices and to standardize the information on their websites, do so, in keeping with their obligations in that regard under the standards that govern freedom of access to public information.*

[353] It is also worth noting that the civil society organization *Participación Ciudadana*, which was invited to participate in the on-site visit, mentioned the following: “The importance of adopting the General Law on Access to Public Information and its implementing regulations is acknowledged, and it has enabled the process of establishing formal structures to guarantee access to information to begin. This process has served as a tool that could encourage greater citizen participation in monitoring public administration; however, the compliance reports prepared by *Participación Ciudadana* still record a low level of implementation on the part of obligated parties.”

Recommendation 4.2.2:

*Consider developing a mechanism that follows up on the objective results from the application of Law No. 200-04 and its regulations, and which ensures its circulation.*¹²⁶

[354] In its response,¹²⁷ and during the on-site visit, the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

[355] - “The Bureau of Governmental Integrity and Ethics (DIGEIG) collects statistics on progress in implementing Law 200-04.”

[356] The Committee takes note of the step taken by the country under review to move ahead with implementation of the above recommendation and of the need for it to continue giving the matter its attention, bearing in mind that, although in the response of the country under review to the questionnaire and during the on-site visit the DIGEIG provided information regarding compliance by public-sector agencies with their obligations under the standards governing freedom of access to public information as regards opening public information offices and standardizing the information on their websites, there is not yet a mechanism in place by which to follow up on the objective results of other important aspects envisaged in those standards, such as those arising from the processing, pursuant to Article 6 (35) of Decree 486-12, of hierarchical appeals lodged against refusals by institutions to release information requested of them (see recommendation 4.2.2 in Section 4.2 of Annex I to this report)

¹²⁶ In the Third Round, regarding this measure, on September 10, 2010, the country under review reported that: “To date, the National Council for State Reform (CONARE) has set up 110 information access offices (OAI) at different agencies of the public administration. Although the oversight agency for access to information in the Dominican Republic has not yet been created, this citizen right can be exercised with complete freedom. The new Constitution of the Dominican Republic places no restrictions on free access to information.” This information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

¹²⁷ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 38.

4.3. Mechanisms for consultation

Recommendation:

*Complement the existing consultation mechanisms by establishing, where appropriate, procedures that will offer civil society and nongovernmental organizations greater opportunities for public consultations before the design of public policies and the final approval of laws.*¹²⁸

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Encourage greater opportunities within the framework of the National Congress for civil society to express an opinion during debate on and passage of legislation, and consider the possibility of making these opportunities mandatory when the matters discussed are sufficiently important or sensitive.

[357] In its response,¹²⁹ and during the on-site visit the country under review presented information and new developments with respect to the above measure, in which the Committee notes the following as steps that contribute to progress in its implementation:

[358] “The Constitution passed in 2010 introduces new forms of citizen participation, such as people’s legislative bills, referendums, and plebiscites. Article 22, which deals with citizens’ rights, at paragraph 2 recognizes the right “[t]o make a decision on matters put to them by referendum,” while paragraph 3 allows them “[t]o exercise the right to introduce people’s legislative and municipal bills under the conditions set by the Constitution and laws.” Article 97 provides that a people’s legislative bill may be passed “by a group of citizens numbering no fewer than those needed to approve a special law establishing the procedure and restrictions for presenting such a bill.” Article 203 creates direct mechanisms for local participation and orders a future Organizational Law on Local Participation to establish the frameworks and rules for presenting law bills and holding referendums and plebiscites at the local and municipal level. Article 210 provides that popular consultations through referendums will be subject to two conditions: 1. They may not seek the approval or revocation of the mandate of any elected or appointed official. 2. They shall require prior congressional approval, with a vote of two-thirds of those present in each chamber. For constitutional amendments, Article 272 states that “when the amendment addresses rights, basic guarantees, and duties, territorial or municipal ordering, the regime of nationality, citizenship, and foreign status, the currency regime, and reform procedures established in this Constitution, it shall require the ratification of a majority of the citizens with the right to vote in a referendum.”

[359] The Committee takes note of the steps taken by the country under review to move ahead with implementation of the above recommendation and of the need for it to continue giving the matter its attention, bearing in mind that, although the Constitution passed in 2010 introduces new forms of

¹²⁸ In the Third Round, regarding this recommendation, on September 10, 2010, the country offered the comments set out on page 39 of its response to the questionnaire in the Fourth Round, regarding follow-up on recommendations from the First Round. That information was not analyzed in the report in the Third Round because it was submitted after the deadline set by the Committee for the presentation of information for review (see Section I of that report, “Summary of the Information Received”) but it has been taken into account for this report.

¹²⁹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 39.

citizen participation, such as people's legislative bills, referendums and plebiscites, the legal standards necessary for their development, to which the country under review refers in the part of its response transcribed in the preceding paragraph, have yet to be adopted. In this regard, it should be noted that during the on-site visit, the DIGEIG mentioned that the processing in the legislative branch of a bill dealing with the matters referred to in that paragraph has been terminated, and that it will have to be reintroduced for consideration (see measure (a) in Section 4.3 of Annex I this report).

Measure (b) which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Promote and foster the practice that some local governments have introduced of institutionalizing opportunities for civil society to advise in government decision-making as an effective means of combating corruption, and make this practice universal.

[360] In its response, the country under review did not provide information on measure (b) of the recommendation in Chapter IV, Section 4.3 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (b) in Section 4.3 of Annex I to this report).

Measure (c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Consider the application of consultation mechanisms at the national level. They might be similar to those used at the county level, where civil society is authorized to review and propose certain public policies; as well as the possibility of these mechanisms being convoked by popular initiative, both at the local and national levels and in connection with those issues on which the Dominican Republic believes such consultations might be constructive.

[361] In its response, the country under review did not provide information on measure (c) of the recommendation in Chapter IV, Section 4.3 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (c) in Section 4.3 of Annex I to this report).

Measure d), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Design and implement programs for disseminating the mechanisms for participating in the monitoring of the public administration and, when appropriate, training and providing civil society and NGOs with the tools needed to use those.

[362] In its response, the country under review did not provide information on measure (d) of the recommendation in Chapter IV, Section 4.3 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (d) in Section 4.3 of Annex I to this report).

Measure e), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Advance the implementation and the improvement of existing opportunities for participation, while ensuring that they function effectively and that they assure civil society's active participation in public affairs and in efforts aimed at preventing corruption; a determination should be made as to the weight that these mechanisms will carry.

[363] In its response, the country under review did not provide information on measure (e) of the recommendation in Chapter IV, Section 4.3 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (e) in Section 4.3 of Annex I to this report).

4.4. Mechanisms to encourage participation in public administration

Recommendation:

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

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Establish additional mechanisms that strengthen the participation of civil society organizations in public administration, especially in efforts to prevent corruption, and advance the institutionalization and regulation of these mechanisms, in comprehensive and permanent system.

[364] In its response,¹³⁰ and during the on-site visit, the country under review presented information and new developments with respect to the above measure, of which the Committee notes the following as steps that contribute to progress in its implementation:

[365] - “June 2009 saw the creation of the Participatory Anticorruption Initiative [*Iniciativa Participativa Anticorrupción*] (IPAC) as a body within the Office of the President of the Republic to counter the perceived lack of transparency surrounding corruption in public administration.- The purposes of the Initiative are: (a) to compile available information on successful experiences in promoting transparency; (b) to identify gaps in information on the issue and ways to fill them; (c) to compile and analyze information; and (d) to recommend concrete measures to the Office of the President of the Republic. IPAC was formed by an organizing committee composed of two representatives from each sector (national government, civil society, and private business) appointed by the Office of the President. The committee will have a support team of international agencies (under the coordination of the World Bank and USAID) as well as a team of consultants. The principal members of the committee are: A) Ministry of the Presidency; B) Ministry of Economy, Planning and Development; C) USAID; D) AECID; E) World Bank; F) FINJUS; G) Participación Ciudadana; 10 working panels were organized in the following order: A) Government Procurement; B) Civil Service; C) Financial Management; D) Access to Information; E) Infrastructure; F) Health; G) Education; H) Energy; I) Water; J) Oversight Agencies. For more information, visit <http://www.ipacrd.org>. Legislation is currently being drafted to enable IPAC to function as a permanent mechanism.”

[366] The Committee takes note of the steps taken by the country under review to move ahead with implementation of measure (a) of the recommendation in Chapter IV, Section 4.4 of this report and of the need for it to continue giving the matter its attention, bearing in mind that, although the Participatory Anticorruption Initiative (IPAC) was created as a body within the Office of the President of the Republic to counter the perceived lack of transparency surrounding corruption in public administration, the legal standards to allow it to function as a permanent mechanism, to which the country under review refers in the part of its response transcribed in the preceding paragraph, have yet to be adopted. In this regard, it should be noted that during the on-site visit the Director of

¹³⁰ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, pp. 44 and 45.

the DIGEIG mentioned the importance of the above mechanism, which involves civil society stakeholders (see measure (a) in Section 4.4 of Annex I this report).

Measure (b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Resolve that the results obtained from the use of these mechanisms will be taken into account in the decision-making process.

[367] In its response, the country under review did not provide information on measure (b) of the recommendation in Chapter IV, Section 4.4 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (b) in Section 4.4 of Annex I to this report).

Measure (c), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

- Design and implement programs to raise awareness of these mechanisms and stimulate participation in public affairs as a means to combat corruption and, when appropriate, instruct civil society, nongovernmental organizations, public officials and civil servants in their proper use and equip them with the tools necessary to do so.

[368] In its response,¹³¹ the country under review presents information and new developments with respect to the above measure, of which the Committee notes the following as a step that contributes to progress in its implementation:

[369] - “The DIGEIG, through its Department of Transparency, is responsible for continuing the activities of IPAC and the Open Governance initiative.”

[370] The Committee takes note of the step taken by the country under review to move ahead with implementation of measure (c) suggested in the recommendation in Chapter IV, Section 4.4 of this report, and of the need for it to continue giving the matter its attention, given that it has not provided information on the awareness-raising and training programs to which the measure refers (see measure (c) in Section 4.4 of Annex I to this report).

4.5. Mechanisms for participation in follow-up on public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the follow-up of public administration.

Measure (a), which requires further attention under the terms envisaged in the reports from the Second and Third Rounds:

- Promote, as appropriate, additional means of participation that will allow, facilitate and assist civil society organizations in the development of activities for the follow-up of public administration, and make advances toward institutionalizing and regulating the new methods with a view to ensuring that some of them become permanent mechanisms.

¹³¹ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 47.

[371] In its response, the country under review did not provide information on measure (a) of the recommendation in Chapter IV, Section 4.5 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (a) in Section 4.5 of Annex I to this report).

Measure (b), which requires further attention under the terms provided in the reports from the Second and Third Rounds:

Consider the implementation of awareness and training programs targeted at civil society and nongovernmental organizations. Furthermore, the Committee considers that the Dominican Republic could benefit from the presentation of periodic reports by the government in order to raise awareness of its efforts.

[372] In its response, the country under review did not provide information on measure (b) of the recommendation in Chapter IV, Section 4.5 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see measure (b) in Section 4.5 of Annex I to this report).

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

Recommendation 5.1.

Consider the possibility of further deepening and expanding the relationships, obligations and actions that stem from the international agreements signed on the subjects examined by the Committee and which have been selected for review within this first round, in order to promote greater mutual assistance for the investigation or prosecution of corruption cases.

[373] In its response, the country under review did not provide information on recommendation 5.1 in Chapter IV, Section 5 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see recommendation 5.1 in Section 5 of Annex I to this report).

Recommendation 5.2.

Continue to determine those specific areas in which the Dominican Republic sees the need for technical cooperation with other States party in order to strengthen its capability to prevent, detect, investigate and punish acts of corruption. The Dominican Republic should also continue to determine and prioritize requests for mutual assistance in investigating or prosecuting cases of corruption.

[374] In its response, the country under review did not provide information on recommendation 5.2 in Chapter IV, Section 5 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see recommendation 5.2 in Section 5 of Annex I to this report).

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation:

Ensure that the Department for the Prevention of Corruption in Government, as the central authority designated by the country under review as the central authority for the purposes of the Convention, has the resources necessary to discharge its functions.

[375] In its response,¹³² the country under review offered the following comments regarding the above recommendation: “Decree 486-12, which created the Bureau of Governmental Integrity and Ethics, instructs the institution, at Article 6 (12), (13), and (17), to follow up and represent the State before international agencies and their various mechanisms for evaluating implementation of conventions and other international obligations in the area of corruption and transparency.”

[376] Bearing in mind the observations of the country under review in the part of its response to the questionnaire transcribed in the preceding paragraph and, furthermore, that Chapter II of this report contains a comprehensive analysis of the PEPCA (formerly the DPCA) and the DIGEIG, which it reaffirms, the Committee believes it appropriate to reformulate the recommendation in Chapter IV, Section 6 of this report as follows (see the recommendation in Section 6 of Annex I to this report):

[377] Stipulate that the Bureau of Governmental Integrity and Ethics (DIGEIG) is the central authority for the purposes of international cooperation and assistance envisaged in the Convention and, therefore, inform the OAS General Secretariat of its designation as such, in accordance with the formalities provided for that purpose.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1.

Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, provisions, measures, and mechanisms considered in this report, for the purpose of ensuring that they are adequately known, managed, and implemented.

[378] In its response, the country under review did not provide information on recommendation 7.1 in Chapter IV, Section 7 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see recommendation 7.1 in Section 7 of Annex I to this report).

Recommendation 7.2.

Select and develop procedures and indicators, as appropriate, that enable verification of the follow-up to the recommendations contained in this report, and communicate the results of this follow-up to the Committee through the Technical Secretariat. With this in mind, it may take into account the list of more general indicators applicable within the Inter-American system that were available for the selection indicated by the State under review and posted on the OAS website by the Technical Secretariat of the Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 below.

[379] In its response,¹³³ the country under review presents information and new developments with respect to the above recommendation, of which the Committee notes the following as a step that contributes to progress in its implementation:

[380] – “The DIGEIG, through its Department of Transparency, has prepared a monitoring table for the commitments and recommendations emerging from the MESICIC. The table is updated quarterly

¹³² Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 51.

¹³³ Response of the Dominican Republic to the questionnaire concerning the follow-up to recommendations from the First Round, p. 53.

and the bodies responsible advised of the fulfillment of the recommendations concerning this commitment.”

[381] The Committee takes notes of the step taken by the country under review to move ahead with implementation of Recommendation 7.2 in Chapter IV, Section 7 of this report, and of the need for it to continue giving the matter its attention, bearing in mind that the procedures and indicators alluded to in that recommendation have not yet been selected and developed (see recommendation 7.2 in Section 7 if Annex I to this report).

Recommendation 7.3.

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

[382] In its response, the country under review did not provide information on recommendation 7.3 in Chapter IV, Section 7 of this report. Therefore, the Committee notes the need for it to continue giving attention thereto (see recommendation 7.3 in Section 7 of Annex I to this report).

ANNEX I

PENDING AND REFORMULATED RECOMMENDATIONS FROM THE FIRST ROUND

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

1.1. Standards of conduct to prevent conflict of interest and mechanisms to enforce them

Recommendation:

Consider strengthening the implementation of laws and regulatory systems related to conflicts of interest, in order to permit the effective and practical enforcement of a system of public ethics.

Suggested measures:

- a. Consider broadening the existing rules on incompatibilities and disqualifications to applicable public servants of all public branches, including those of the Legislative, Judicial and Executive Branch and members of the oversight bodies.
- b. Consider the possibility of incorporating into the legal system a rule that limits participation by former public servants, including those of senior rank, in situations that could involve taking undue advantage of one's status as a former public servant, for a specified period of time and without resulting in an absolute restriction on their constitutional right to work.
- c. Compile information on cases of conflicts of interest so as to establish evaluation tools with which to verify results on this issue.

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

Recommendation 1.2.1:

Strengthen the operating capacity of the General Bureau of National Property, in order for it to fully discharge its responsibilities under the law with regard to the creation and maintenance of an inventory of real and personal property. As well, promote measures that, among other things, prevent that the development of the functions of this Bureau depends on the discretion of its Director or any other official.

Recommendation 1.2.2:

Continue and improve the work of the General Accounting Office with respect to the organization of State accounting, ensuring that it has the material and human resources necessary to perform its work.

Recommendation 1.2.3:

Continue to take measures to recover, preserve and guarantee proper use of public resources, such as the measures being taken by the Dominican Agrarian Institute, the Secretary of State for Education, and the Technical Office for Ground Transportation.

1.3. Measures and systems requiring public officials to report acts of corruption in the performance of public functions of which they are aware to the appropriate authorities

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

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

Recommendation:

Consider improving the systems for supervising and evaluating the contents of declarations of income, assets and liabilities.

Suggested measures:

- a. Consider the possibility of complementing Law No. 82 of 1979, as regards those public officials required to file sworn statements of assets, by providing that the competent authority may establish general criteria for determining the scope of the categories established therein, as proposed by Article 3 of the Model Law on the Declaration of Interests, Income, Assets, and Liabilities of Persons Performing Public Functions.
- b. Improve the efforts aimed at the implementation of a register of public servants who are obliged to file sworn declarations of income, assets and liabilities, while also providing mechanisms by which to periodically update those lists, so as to facilitate the administration and management of those declarations.
- c. Complement the rules on the content of public servants' sworn declarations of income, assets and liabilities so that those statements include a description of the nature or characteristics of the properties which the public servant must itemize on the list of his property, assets and liabilities, bearing in mind Articles 5 and 6 of the "Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions," and establish the criteria by which to determine their economic value.
- d. Implement a system for the declaration of income, assets and liabilities designed to detect and identify significant and unjustified changes in assets, and to detect and prevent conflict of interests, expressly setting out those objectives in the standards governing such matters, taking into account Article 1 of the "Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions."
- e. Consider the possibility of amending the content of the provisions in Law No. 82 of 1979 concerning the occasion for filing the sworn declaration of assets, taking into account Article 4 of the "Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions."
- f. Introduce systems to verify the contents of sworn declarations of assets and to analyze said contents, in order to detect and identify significant and unjustified changes in assets, and to detect and prevent conflict of interests, taking into account Chapters IV and V of the "Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions."

- g. Expand the existing system of sanctions and penalties for violation of obligations in connection with sworn declarations of assets, taking into account Chapter VIII of the “Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions.”
 - h. Implement programs to train public servants on the provisions governing application of the system of declarations of income, assets and liabilities; and design and introduce mechanisms to disseminate the system among the public servants who are required to enforce compliance with the obligation, in order to ensure that they are thoroughly familiar with the existing standards.
- 3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)**

Recommendation:

Adopt appropriate measures for the Ombudsman to have the organizational structure, regulatory standards and resources it needs to perform properly in full its functions under Law 19-01 to protect citizens’ rights and to ensure that the public administration functions properly.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ART. III, PARAGRAPH 11)

4.1. General participation mechanisms

The Committee did not formulate any recommendations in this section.

4.2. Mechanisms for access to information

Recommendation 4.2.1:

Consider moving forward on the implementation of the General Freedom of Public Information Act.

Suggested measure:

- Ensure that public-sector agencies required to open public information offices and to standardize the information on their websites, do so, in keeping with their obligations in that regard under the standards that govern freedom of access to public information.

Recommendation 4.2.2:

Consider developing a mechanism that follows up on the objective results from the application of Law No. 200-04 and its regulations, and which ensures its circulation.

4.3. Consultation mechanisms

Recommendation:

Complement the existing consultation mechanisms by establishing, where appropriate, procedures that will offer civil society and nongovernmental organizations greater opportunities for public consultations before the design of public policies and the final approval of laws.

Suggested measures:

- a. Encourage greater opportunities within the framework of the National Congress for civil society to express an opinion during debate on and passage of legislation, and consider the possibility of making these opportunities mandatory when the matters discussed are sufficiently important or sensitive.
- b. Promote and foster the practice that some local governments have introduced of institutionalizing opportunities for civil society to advise in government decision-making as an effective means of combating corruption, and make this practice universal.
- c. Consider the application of consultation mechanisms at the national level. They might be similar to those used at the county level, where civil society is authorized to review and propose certain public policies; as well as the possibility of these mechanisms being convoked by popular initiative, both at the local and national levels and in connection with those issues on which the Dominican Republic believes such consultations might be constructive.
- d. Design and implement programs for disseminating the mechanisms for participating in the monitoring of the public administration and, when appropriate, training and providing civil society and NGOs with the tools needed to use those.
- e. Advance the implementation and the improvement of existing opportunities for participation, while ensuring that they function effectively and that they assure civil society's active participation in public affairs and in efforts aimed at preventing corruption; a determination should be made as to the weight that these mechanisms will carry.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the conduct of public affairs.

Suggested measures:

- a. Establish additional mechanisms that strengthen the participation of civil society organizations in public administration, especially in efforts to prevent corruption, and advance the institutionalization and regulation of these mechanisms, in comprehensive and permanent system.
- b. Resolve that the results obtained from the use of these mechanisms will be taken into account in the decision-making process.
- c. Design and implement programs to raise awareness of these mechanisms and stimulate participation in public affairs as a means to combat corruption and, when appropriate, instruct civil society, nongovernmental organizations, public officials and civil servants in their proper use and equip them with the tools necessary to do so.

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

Recommendation:

Strengthen and continue implementing mechanisms to encourage civil society organizations and nongovernmental organizations to participate in the follow-up of public administration.

Suggested measures:

- a. Promote, as appropriate, additional means of participation that will allow, facilitate and assist civil society organizations in the development of activities for the follow-up of public administration, and make advances toward institutionalizing and regulating the new methods with a view to ensuring that some of them become permanent mechanisms.
- b. Consider the implementation of awareness and training programs targeted at civil society and nongovernmental organizations. Furthermore, the Committee considers that the Dominican Republic could benefit from the presentation of periodic reports by the government in order to raise awareness of its efforts.

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

Recommendation 5.1.

Consider the possibility of further deepening and expanding the relationships, obligations and actions that stem from the international agreements signed on the subjects examined by the Committee and which have been selected for review within this first round, in order to promote greater mutual assistance for the investigation or prosecution of corruption cases.

Recommendation 5.2.

Continue to determine those specific areas in which the Dominican Republic sees the need for technical cooperation with other States party in order to strengthen its capability to prevent, detect, investigate and punish acts of corruption. The Dominican Republic should also continue to determine and prioritize requests for mutual assistance in investigating or prosecuting cases of corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation

Stipulate that the Bureau of Governmental Integrity and Ethics (DIGEIG) is the central authority for the purposes of international cooperation and assistance envisaged in the Convention and, therefore, inform the OAS General Secretariat of its designation as such, in accordance with the formalities provided for that purpose.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1.

Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, provisions, measures, and mechanisms considered in this report, for the purpose of ensuring that they are adequately known, managed, and implemented.

Recommendation 7.2.

Select, develop, and report to the Technical Secretariat of the Committee, procedures and indicators, when appropriate, that make it possible to monitor the recommendations established in this report. With this in mind, it may take into account the list of more general indicators applicable within the Inter-American system that were available for the selection indicated by the State under review and posted on the OAS website by the Technical Secretariat of the

Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 below.

Recommendation 7.3.

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

ANNEX II

**AGENDA FOR THE ON-SITE VISIT TO
THE DOMINICAN REPUBLIC***

Monday, October 7, 2013

5:00 - 5:30 p.m. <u>Place:</u> Hotel Plaza Naco	Coordination meeting between representatives of the members states of the subgroup and the Technical Secretariat.
5:30 - 6:00 p.m. <u>Place:</u> Hotel Plaza Naco	Coordination meeting of representatives of the state under review, the members states of the subgroup, and the Technical Secretariat

Tuesday, October 8, 2013

8:30 - 10:30 a.m. <u>Place:</u> Bureau of Governmental Integrity and Ethics (DIGEIG)	Meetings with civil society organizations and/or, inter alia, private sector organizations, professional organizations, academics or researchers.¹³⁴
	<u>Subject: Oversight bodies:</u> <ul style="list-style-type: none">• Oversight bodies from the point of view of civil society
	<u>Participants:</u> <i>Fundación Institucionalidad y Justicia (FINJUS)</i> Dr. Servio Tulio Castaños Guzmán, <i>Executive Vice President</i> <i>Participación Ciudadana</i> Dr. Roberto Álvarez, <i>General Coordinator</i> <i>Institute of Public Accountants of the Dominican Republic (ICPARD)</i> Mr. Pedro Matos Vizcaino, <i>President</i>

* This agenda was agreed upon pursuant to items 13 and 14 of the Methodology for Conducting On-Site Visits (document SG/MESICIC/doc.276/11 rev. 2), available at: http://www.oas.org/juridico/english/met_onsite.pdf

¹³⁴ It is suggested that the other organizations and individuals listed be invited to attend, as envisaged in item 27 of the Methodology for Conducting On-site Visits, which permits the invitation to these meetings of civil society organizations and/or, inter alia, private sector organizations, professional associations, academics, or researchers.

<p>10:30 - 12:00 p.m. Place: DIGEIG</p>	<p>Meetings with civil society organizations and/or, inter alia, private sector organizations, professional organizations, academics or researchers (<i>ctd.</i>).</p>
	<p><u>Subject: Follow-up to Recommendations from the First Round:</u></p> <ul style="list-style-type: none"> • Government accounting and conservation of public funds • Sworn declarations • Mechanisms for participation by civil society <p><u>Participants:</u></p> <p><i>Institute of Public Accountants of the Dominican Republic (ICPARD)</i> Mr. Pedro Matos Vizcaino, <i>President</i></p> <p><i>Participación Ciudadana</i> Dr. Roberto Álvarez, <i>General Coordinator</i></p>
<p>12:00 - 1:30 p.m.</p>	<p>Lunch</p>
<p>2:00 - 5:30 p.m. Place: DIGEIG</p>	<p>Court of Accounts of the Dominican Republic (CCRD)</p>
<p>2:00 - 5:30 p.m.</p>	<p>Panel 1: Court of Accounts of the Dominican Republic:</p> <ul style="list-style-type: none"> • Brief presentation on its purpose, functions, and structure • Coordination of responsibilities with other organs • Staff rules • Results in relation to the fulfillment of its responsibilities • Difficulties in performing its functions • Strategic Plan for Institutional Development and Sustainability 2010-2016 • Institutional strengthening <p><u>Participants:</u></p> <p>Dr. Belkys Pérez Diplán, <i>CCRD legal consultant</i></p>
<p>6:00 p.m. Place: <i>Hotel Plaza Naco</i></p>	<p>Informal Meeting¹³⁵ between the representatives of the member states of the Subgroup and the Technical Secretariat.</p>

¹³⁵. The second paragraph of item 20 of the Methodology for Conducting On-Site Visits states: “At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings.”

Wednesday, October 9, 2013

<p>9:00 a.m. - 1:00 p.m. Place: DIGEIG</p>	<p>Bureau of Governmental Integrity and Ethics (DIGEIG)</p>
<p>9:00 - 11:30 a.m.</p>	<p>Panel 2: The Bureau of Governmental Integrity and Ethics:</p> <ul style="list-style-type: none">• Brief presentation on its purpose, structure, and functions• Performance of its responsibilities and coordination with other bodies• Results in relation to the fulfillment of its responsibilities• Difficulties in performing its functions• Best practices <p><u>Participants:</u></p> <p>Dr. Marino Vinicio Castillo Rodríguez, <i>Director General</i> Dr. Miguel Suazo, <i>Executive Director</i> Mr. Julio Simón Castaños Zouain, <i>Responsible, Legal Division</i> Mr. Beantuk Satil, <i>Responsible, Department of Human Resources</i> Ms. Mayra Domínguez, <i>Responsible, Department of Planning and Evaluation</i> Mr. Luis A. Santiago, <i>Computer systems advisor</i> Ms. Berenice Barinas, <i>Responsible, Department of Transparency</i> Mr. Rafael Basona, <i>Responsible, Bureau of Governmental Integrity and Ethics</i></p>
<p>11:30 a.m. - 1:00 p.m.</p>	<p><u>Follow-up to Recommendations from the First Round:</u></p> <p><u>Place: DIGEIG</u></p> <p>Panel 3:</p> <ul style="list-style-type: none">• Prevention of conflicts of interest: <p><u>Participants:</u></p> <p>Mr. Julio Simón Castaños Zouain, <i>Responsible, Legal Division</i> Mr. Rafael Basona, <i>Responsible, Bureau of Governmental Integrity and Ethics</i></p> <p>Panel 4:</p> <ul style="list-style-type: none">• Conservation of public resources <p><u>Participants:</u></p> <p>Mr. Daniel Omar Caamaño, <i>Director General, Accounting</i></p>

	<p>Mr. Julio Simón Castaños Zouain, <i>Responsible, Legal Division</i></p> <p>Panel 5:</p> <ul style="list-style-type: none"> • Sworn Statements of Assets <p><u>Participants:</u></p> <p>Mr. Julio Simón Castaños Zouain, <i>Responsible, Legal Division</i></p> <p>Panel 6:</p> <ul style="list-style-type: none"> • Mechanisms for participation by civil society <p><u>Participants:</u></p> <p>Mr. Julio Simón Castaños Zouain, <i>Responsible, Legal Division</i></p>
1:00 - 2:30 p.m.	Lunch
2:30 – 6:00 p.m. Place: DIGEIG	Office of the Comptroller General of the Republic (CGR)
2:30 – 5:00 p.m.	<p>Panel 7: The Office of the Comptroller General of the Dominican Republic (CGR)</p> <ul style="list-style-type: none"> • Brief presentation on its purpose and functions • Coordination of responsibilities with other organs • Results in relation to the fulfillment of its responsibilities • Difficulties in performing its functions • Institutional Strategic Plan • Plan of action on “Implementation of a System of Societal Comptrollership” • Institutional strengthening <p><u>Participants:</u></p> <p>Mr. Dhimas Paredes, <i>Director, Governmental Internal Audit Unit</i></p> <p>Ms. Alejandra Mora, <i>Director, Regulatory Development</i></p> <p>Mr. Julio Valdez, <i>Director, Special Audits</i></p> <p>Mr. Carlos del Pozo, <i>Director, Communications</i></p> <p>Ms. Arianna Labrada, <i>Responsible, Access to Information</i></p> <p>Mr. Fredy Montás, <i>Director, Information Technology</i></p> <p>Ms. Juana Vélez, <i>Legal consultant</i></p>
6:30 p.m.	Informal Meeting between representatives of the member states in the

<i>Place: Hotel Plaza Naco</i>	review subgroup and the Technical Secretariat
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Thursday, October 10, 2013

8:30 - 12:00 p.m. <u>Place:</u> Supreme Court of Justice	Supreme Court of Justice / Judiciary
8:30 a.m. - 12:00 p.m.	<p>Panel 8: The Supreme Court of Justice / Judiciary</p> <ul style="list-style-type: none"> • Brief presentation of its purpose, functions and structure relating to the investigation and punishment of acts of corruption • Performance of its responsibilities and coordination with other bodies • Results in relation to the fulfillment of its responsibilities • Difficulties in performing its functions • Strategic Plan 2009 - 2013 • Institutional strengthening <p><u>Participants:</u></p> <p>Ms. Dalsia Herrera, <i>Director, Human Resources Management</i></p> <p>Mr. Carlos Iglesias, <i>Director General, Judicial Career</i></p> <p>Ms. Gloria Cuello, <i>Director, Technical Bureau</i></p> <p>Dr. Gervasia Valenzuela, <i>Director, National Judicature School</i></p> <p>Mr. Jacinto Castillo, <i>Deputy Director, National Judicature School</i></p>
12:00 - 1:30 p.m.	Lunch
2:00 - 5:30 p.m. <u>Place:</u> PEPCA	Office of the Special Attorney to Prosecute Corruption in Public Administration (PEPCA)

<p>2:00 - 4:30 p.m.</p>	<p>Panel 9: The Office of the Special Attorney to Prosecute Corruption in Public Administration:</p> <ul style="list-style-type: none">• Brief presentation on its purpose, functions, and structure• Performance of its responsibilities and coordination with other bodies• Staff rules• Results in relation to the fulfillment of its responsibilities• Difficulties in performing its functions• Institutional strengthening <p><u>Participants:</u></p> <p>Dr. Laura Guerrero, <i>Government Attorney</i></p> <p>Mr. Narciso Escaño, <i>Prosecutor</i></p> <p>Ms. Bertha Cabrera, <i>Court Government Attorney</i></p> <p>Mr. Gedeón Bautista, <i>Court Government Attorney</i></p> <p>Ms. Elvia Bautista, <i>Prosecutor</i></p> <p>Ms. Ramona Nova, <i>Court Government Attorney</i></p> <p>Mr. Ysidro Fabian, <i>Court Government Attorney</i></p> <p>Mr. Julián Rojas, <i>Judicial Auditor</i></p> <p>Mr. Skinner Ozuna, <i>Lawyer</i></p> <p>Ms. Chanel Ferreira, <i>Paralegal</i></p>
<p>4:30 - 5:30 p.m.</p>	<p><u>Follow-up to Recommendations from the First Round:</u></p> <p><u>Place: PEPCA</u></p> <p>Panel 10:</p> <ul style="list-style-type: none">• Conservation of public resources <p><u>Participants:</u></p> <p>Dr. Laura Guerrero, <i>Government Attorney</i></p> <p>Mr. Narciso Escaño, <i>Prosecutor</i></p> <p>Panel 11:</p> <ul style="list-style-type: none">• Sworn Statements of Assets <p><u>Participants:</u></p> <p>Dr. Laura Guerrero, <i>Government Attorney</i></p> <p>Mr. Narciso Escaño, <i>Prosecutor</i></p>

6:00 - 6:30 p.m. <i>Place: Hotel Plaza Naco</i>	Informal meeting between representatives of the member States in the subgroup and the Technical Secretariat.
6:30 - 7:00 p.m. <i>Place: Hotel Plaza Naco</i>	Final Meeting ¹³⁶ with representatives of the State under review, the members states of the subgroup, and the Technical Secretariat.

OFFICIALS WHO ACTED AS CONTACTS IN THE STATE UNDER REVIEW IN COORDINATING THE ON-SITE VISIT, AS WELL AS REPRESENTATIVES OF THE MEMBER STATES OF THE SUBGROUP AND OF THE MESICIC TECHNICAL SECRETARIAT WHO TOOK PART IN THE VISIT

STATE UNDER REVIEW:

DOMINICAN REPUBLIC

Julio Simón Castaños Z.

Lead Expert on the Committee of Experts of the MESICIC
In charge of the Legal Division, Bureau of Governmental Integrity and Ethics
DIGEIG

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

URUGUAY

José Pedro Montero Traibel

Lead Expert on the Committee of Experts of the MESICIC
President, Transparency and Public Ethics Board

HONDURAS

Rigoberto Córdova Laitano

Alternate Expert on the Committee of Experts of the MESICIC
Assistant Judge, Superior Court of Accounts

TECHNICAL SECRETARIAT OF THE MESICIC

Enrique Martínez Ramón

Principal Legal Officer of the Department of Legal Cooperation
OAS Secretariat for Legal Affairs.

¹³⁶. The third paragraph of item 20 of the Methodology for Conducting On-Site Visits states, “*At the end of the on-site visit, a meeting shall be held, to be attended by the Subgroup experts, the Technical Secretariat, and the Lead Expert of the country under review and/or the official appointed in his place in accordance with provision 10, second paragraph, of this Methodology. That meeting shall identify, if necessary, the information that, exceptionally, the country under review is still to submit through the Technical Secretariat and the deadline within which it is to do so, and it shall also coordinate any other pending matters arising from the on-site visit.*”