



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

Twenty-Sixth Meeting of the Committee of Experts
March 7-11, 2016
Washington, DC

OEA/Ser.L.
SG/MESICIC/doc.458/15 rev. 4
11 March 2016
Original: Spanish

PLURINATIONAL STATE OF BOLIVIA

FINAL REPORT

(Adopted at the March 21, 2016 plenary session)

SUMMARY

This report contains the comprehensive review of the implementation in Bolivia of the recommendations that were made to it in the Second Round in connection with Article III (5) and (8) of the Inter-American Convention against Corruption, in relation, respectively, to systems of government hiring and procurement of goods and services, and systems for protecting public servants and private citizens who, in good faith, report acts of corruption, as well as classification of the acts of corruption envisaged in Article VI thereof, including references, as appropriate, to new developments in the implementation of those provisions.

The report also includes a comprehensive analysis of the implementation in Bolivia of Article III (3) and (12) of the Convention, which concerned, respectively, measures to create, maintain, and strengthen instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, and the study of further preventive measures that take into account the relationship between equitable compensation and probity in public service, which were selected by the MESICIC Committee of Experts for the Fifth Round, likewise including references to best practices reported by the state in the implementation of the provisions selected for the second and fifth rounds.

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

The review was carried out mainly taking into account Bolivia's response to the questionnaire and information gathered during the on-site visit to that state from October 14 to 16, 2015, by representatives of Honduras and Jamaica. With the support of the Technical Secretariat of MESICIC, during that visit, the information furnished by Bolivia was clarified and supplemented with the opinions of civil society and private sector organizations, professional associations, and academics on the issues under review.

With regard to the implementation of the recommendations that were formulated to Bolivia in the report from the Second Round and with respect to which the Committee, in the Third Round report, found required additional attention, based on the methodology for the Fifth Round and bearing in mind the information provided in the response to the questionnaire and during the on-site visit, the Committee made a determination as to which of those recommendations had been satisfactorily implemented, which required additional attention, which should be reframed, and which were no longer valid.

Among the advances made in implementing those recommendations, the Committee notes, first, the provisions contained in the new Political Constitution of the country promulgated in 2009, which enshrines the principles of legitimacy, legality, impartiality, openness, social commitment and the social interest, ethics, transparency, equality, competition, efficiency, quality, human warmth, honesty, responsibility, and the achievement of results in public service.

Specifically with respect to government hiring systems, it is worth highlighting the legislative initiatives that Bolivia is advancing in order to align those systems with the new Constitution, as well as legal measures that the legislative branch, judiciary, and Public Prosecution Service have been pursuing to strengthen their respective hiring systems, including Specific Regulations on the Personnel Administration System of the Chamber of Deputies and the Senate, Law No. 025 (Judiciary Law) of 2010, and Law No. 260 (Organic Law of the Public Prosecution Service) of 2012, to cite a number of examples.

As regards the regime on government procurement of goods and services, Bolivia has also been moving ahead with efforts of a legislative nature aimed at making that regime compatible with the new constitutional framework. Also worth noting is the 2009 promulgation of SD No. 0181 on Basic Standards of the Goods and Services Administration System, which replaced SD No. 29190 of 2007 in order to make government hiring procedures more efficient, expeditious, and transparent.

On the subject of protection for persons who report acts of corruption, the report mentions the establishment of the Whistleblower and Witnesses Protection System following the promulgation in 2010 of Law No. 004 (“Marcelo Quiroga Santa Cruz” Law on Combating Corruption, Illicit Enrichment, and Investigating Fortunes), whose implementation was regulated in 2013 by Law No. 458 on Protection of Whistleblowers and Witnesses.

As regards classification of the acts of corruption envisaged in Article VI of the Convention, the aforementioned Law No. 004 contributed to the conclusion that Bolivia had satisfactorily considered the recommendations made to it in the Second Round in connection with that article.

Some of the recommendations formulated in the Second Round that are still pending address issues such as regulating recruitment by direct invitation of so-called arbitrary appointment officials; implementing a sanctions regime for contractors and public servants who breach or violate the rules on government procurement of goods and services; and facilitating international cooperation in providing protection for whistleblowers and witnesses of acts of corruption.

In addition, based on the review of new developments in Bolivia in relation to the implementation of the Convention provisions selected for the Second Round, the Committee also formulated recommendations on aspects such as development of laws or other instruments to ensure openness, equity, and efficiency in systems of government hiring and procurement of goods and services based on the principles and rights envisaged in the Constitution and the Convention; avoiding the improper use of individuals providing on-line consultant services and the prolonged continuation in the civil service of individuals engaged as “*interim personnel*”; impeding the improper and/or arbitrary use of exceptional procurement; establishing a general regime on amounts that sets amounts for determining the applicability of direct procurement of goods and services; conducting awareness campaigns, workshops, seminars, or other similar activities designed to disclose and disseminate the nature, content, and scope of Law No. 458 and the protection measures it affords public servants and private citizens who report acts of corruption, among other recommendations.

For the analysis of the provisions selected for the Fifth Round, which, as envisaged in Article III (3) of the Convention that refer to instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, in keeping with the methodology for this round, the country under review chose the personnel of the Ministry of Economy and Public Finance (MEFP), the State School for Judges (EJE) and the Office of the Comptroller General (CGE) because it considers their institutional and normative developments to be relevant and representative of the Plurinational State of Bolivia's entities and institutions as a whole.

This review sought to determine whether, in relation to those groups of personnel, provisions and/or measures have been adopted to ensure proper understanding of their responsibilities and the ethical rules that govern their activities, the manner and timing of that instruction, the programs envisaged for that purpose, the bodies with responsibilities in that regard, and objective results obtained from the application of those provisions and/or measures governing the activities of the personnel of the aforementioned institutions. At the same time, it took note of any difficulties and/or shortcomings in accomplishing the object of that provision of the Convention.

Some of the recommendations formulated to Bolivia for its consideration, in relation to the foregoing address purposes such as the following:

With respect to the personnel of the Ministry of Economy and Public Finance, include, as part of the contents of Individual Annual Operating Plans (POAI), mandatory training courses, workshops, and/or seminars to create awareness of everyone who serves in the public sector about the inherent corruption risks in the performance of their official duties as well as the consequences of.

With respect to the School for Judges, adopt the necessary measures to make it a mandatory requirement for admission to the judiciary to attend and pass the training and specialist instruction programs that The School provides, and develop induction and training courses and/or programs for all public servants in the judiciary on the ethical rules that govern their activities, in particular, ones to make them aware of the inherent corruption risks in the performance of their official duties.

With respect to the Office of the Comptroller General, promote and hold training events to strengthen the ethical and moral development of all public servants in the Office of the Comptroller through its Training Center (CENCAP), taking advantage of its infrastructure and technological tools.

In keeping with the above Methodology, the review of the second provision selected for the Fifth Round, envisaged in Article III (12) of the Convention, sought to determine if the country has studied further preventive measures that take into account the relationship between equitable compensation and probity in public service and if it has established objective and transparent guidelines for determining civil servant remunerations. On that basis, it was recommended to Bolivia to consider promoting inclusion of objective criteria to determine compensation of public servants within offices and entities included in the legislative and judicial branches, as well as for the decentralized and self-sufficient entities of the executive branch.

Finally, the best practices on which Bolivia supplied information, are, in short, the public opening of bids in goods and services procurement processes in the Municipality of Vinto, a practice adopted by its autonomous municipal government; the *Mi Plataforma* initiative introduced by the Ministry for Institutional Transparency and Fight against Corruption as a computer-based tool that centralizes, manages, and publishes information on strategic government projects and/services, in order to facilitate societal oversight of government through access to information; diagnostic assessment of

areas at risk for corruption at the municipal level implemented by the same ministry, to disclose risk maps for the entities evaluated based on qualitative and quantitative instruments that measure the perception of corruption from an external perspective; and lastly, the Executive Branch Ministries Master Salary Scale instituted by the Ministry of Economy and Public Finance as a salary policy instrument for adjusting salaries and establishing levels, categories, descriptions, and basic pay in a bid to harmonize the salary and positions structure in executive branch ministries.

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

**REPORT ON FOLLOW-UP ON IMPLEMENTATION IN THE PLURINATIONAL STATE
OF BOLIVIA OF THE RECOMMENDATIONS FORMULATED AND PROVISIONS
REVIEWED IN THE SECOND ROUND, AND ON THE PROVISIONS OF THE
CONVENTION SELECTED FOR REVIEW IN THE FIFTH ROUND^{1/}**

INTRODUCTION

1. Content of the Report

[1] As agreed upon by the Committee of Experts (hereinafter “the Committee”) of the Follow-Up Mechanism for Implementation of the Inter-American Convention against Corruption (“MESICIC”) at its Twenty-fourth Meeting,^{2/} this report will first refer to follow up on implementation of the recommendations formulated to the Plurinational State of Bolivia in the report from the Second Round,^{3/} and which were deemed by the Committee to require additional attention in the report from the Third Round.^{4/}

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

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

[4] Fourth, it will refer to the best practices that the Plurinational State of Bolivia wished to voluntarily share regarding implementation of the provisions of the Convention selected for the Second and Fifth Rounds.

-
1. This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on March 11, 2016, at its Twenty-Sixth meeting, held at OAS Headquarters, March 7 – 11, 2016.
 2. See the Minutes of the 24th Meeting of the Committee, available at: http://www.oas.org/juridico/docs/XXIV_min.doc
 3. Available at: http://www.oas.org/juridico/english/mesicic_II_rep_blv.pdf
 4. Available at: http://www.oas.org/juridico/english/mesicic_III_rep_blv.pdf

2. Ratification of the Convention and adherence to the Mechanism

[5] According to the official records of the OAS General Secretariat, the Plurinational State of Bolivia ratified the Inter-American Convention against Corruption on March 29, 1996, and deposited the respective instrument of ratification on February 4, 1997.

[6] In addition, the Plurinational State of Bolivia 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 INFORMATION RECEIVED

1. Response of the Plurinational State of Bolivia

[7] The Committee wishes to acknowledge the voluntary offer by the Plurinational State of Bolivia to participate in the first group of countries to be reviewed in the Fifth Round, as well as the cooperation that it received throughout the review process from the Plurinational State of Bolivia, in particular, from the Ministry of Institutional Transparency and Fight against Corruption (hereinafter “MTILCC”), which was evidenced, inter alia, in its reply to the Questionnaire, in the constant willingness to clarify or complete its contents, and in the support for the execution of the *on-site* visit referred to below. Together with its response, the Plurinational State of Bolivia sent the provisions and documents it considered pertinent^{5/}.

[8] The Committee also notes that the Plurinational State of Bolivia gave its consent for the *on-site visit*, in accordance with provision 5 of the *Methodology for Conducting On-site visits*^{6/}. That visit was conducted from October 14 to 16, 2015, by representatives of Honduras and Jamaica, in their capacity as members of the review subgroup, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this report, and the agenda of meetings is attached hereto, in keeping with provision 34 of the above-mentioned *Methodology*.

[9] For its review, the Committee took into account the information provided by the Plurinational State of Bolivia up to October 16, 2015, as well as that furnished and requested by the Technical Secretariat and the members of the review subgroup, to carry out their functions in keeping with the *Rules of Procedure and Other Provisions*^{7/}; the *Methodology for follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round and for the review of the provisions of the Convention selected for the Fifth Round*^{8/}; and the *Methodology for Conducting On-site visits*.

5. Available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

6. Available at: http://www.oas.org/juridico/english/met_onsite.pdf

7. Available at http://www.oas.org/juridico/PDFs/mesicic4_rules_en.pdf

8. Available at: http://www.oas.org/juridico/PDFs/mesicic5_metodologia_en.pdf

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

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

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

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

[12] First, the Committee will refer to progress made and new information and developments in the Plurinational State of Bolivia with respect to the recommendations formulated and measures for their implementation suggested by the Committee in its report from the Second Round^{9/}, which the Committee deemed required additional attention in the Third Round report^{10/}, and it will proceed to take note of those that have been satisfactorily considered and of those that need further attention, in which case it will refer to the ongoing relevance of those recommendations and measures and to their restatement or reformulation, pursuant to Section V of the *Methodology* adopted by the Committee for the Fifth Round.

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

[14] Second, where applicable, it will refer to new developments in the Plurinational State of Bolivia in respect of the provisions of the Convention selected for the Second Round regarding such matters as the legal framework, technological developments and results, and will formulate any observations and recommendations that may be applicable.

9. See note 3, supra.

10. See note 4, supra.

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

1.1. SYSTEMS OF GOVERNMENT HIRING

1.1.1. Follow-up on implementation of the recommendations formulated in the Second Round

Recommendation 1.1.1:

Strengthen the systems for hiring public servants.

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

To continue strengthening the provisions related to the stages of the processes of recruitment and selection of personnel for public service, by adopting the provisions and criteria that better define the announcements, their dissemination and requirements, as well as the holding and the terms and conditions for merit-based competitive hiring procedures and/or competitive examinations.

[15] In its reply, ^{11/} the country under review presents 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:

[16] The *circulars*^{12/} issued and distributed since fiscal year 2008 by what used to be the Superintendency of the Civil Service^{13/} (hereinafter “SSC”), and is now the General Directorate of the Civil Service (hereinafter “DGSC”), which establish provisions and criteria designed not only to improve but also to complete (by filling in gaps or lacunae) the overall regulatory framework regarding procedures for entering and remaining in the civil service, promotions and performance evaluations for civil servants.

11. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.50, available at: http://www.oas.org/juridico/PDFs/mesicic5_blv_resp.pdf

12. Available at: <http://www.mintrabajo.gob.bo/Descargas/DGSC/8.pdf>

13. Article 58.1 of the Civil Service Statute Law No/ 2027 of October 1999, in force since June 19, 2001 (amended by Article 4 of Law No. 2104 of June 21, 2000), established the Superintendency of the Civil Service under what was then called the Ministry of Labor and Microenterprise. Its purpose was to supervise administrative career rules and management in the government entities covered by the Statute, making sure that they abided by the principles of efficiency and effectiveness in the civil service and the achievement of results based on the administrative efforts, dignity, and rights of civil servants. This Superintendency was terminated under Article 139 of Supreme Decree No. 29894 of February 7, 2009, on the Organization of the Executive, amended by S.D. No. 071 of April 9, 2009, and its functions were taken over by the Ministry of Labor, Employment, and Social Security through the General Directorate of the Civil Service, which reports to the Vice Ministry of Employment, Civil Service, and Cooperatives. The functions performed by today's General Directorate of the Civil Service are supervision and management of administrative positions in government entities covered by the above-mentioned Civil Service Statute law.

[17] These *circulars*, according to information garnered during the on-site visit, are binding and mandatory for the Government as a whole pursuant to Article 9 of Ministerial Resolution No. 601/2009^{14/} and the aforementioned Directorate formulates them in accordance with Article 88.m of S.D. No. 29894^{15/} which specifically establishes, as one of its powers, that of issuing regulatory provisions regarding the legalities of labor relations between the State and civil servants.

[18] In addition, in its intervention during the on-site visit, the DGSC representative described the scope and content^{16/} of some of the *circulars* issued between 2008 and 2014, which addressed such matters as formal hiring procedures, the preparation of job profiles, the use of official indigenous languages; the presentation of annual operating plans; internships, performance evaluations, promotions, dismissals, resignations, and the updating of the civil service database.

[19] Nevertheless, it is important to point out that all these steps are being taken in accordance with system of rules in force (despite predating the 2009 Political Constitution of the State [PCS]) on governing the hiring of civil servants,^{17/} which comprises, among other instruments, Law No. 1178 on Government Administration and Oversight (hereinafter the “SAFCO” Law),^{18/} the Civil Servant Statute (hereinafter “CSS”) Law No. 2027,^{19/} Law No. 2104 amending the CSS,^{20/} S.D. No. 25749, containing regulations partially implementing Law N° 2027 on the CSS^{21/} and S.D. N° 26115, containing Basic Standards governing the Personnel Administration System (hereinafter referred to by its Spanish acronym “NB-SAP”).^{22/}

[20] As a result of the foregoing, and without prejudice to taking note of the steps taken by the country under review to make progress toward implementing measure a) in foregoing Recommendation 1.1.1., as reflected in the new functions being performed by the DGSC as regards the issuance of directives and *circulars*, the Committee deems it appropriate to reformulate that measure to urge the country under review to consider adjusting and/or developing, as soon as possible and where applicable, laws or other instruments to ensure openness, fairness, and efficiency of public servant hiring systems, based on the principles upheld in the PCS. (See Recommendation 1.1.3.1 in Section 1.1.3 of Chapter II of this report.)

[21] On this matter, both the government entities and the civil society organizations, private sector representatives, professional associations, and academics who participated in the discussions during the on-site visit, all agreed that it was important not only for the country under review to accord priority to bringing the rules governing the hiring of civil servants into line with the PCS, but also for any new regulatory instruments envisaged for that purpose to ensure that personnel recruitment and selection systems assessed not just a civil servant's merits, capacity, and competence but also her or his *social commitment* and *spirit of service* which should, they argued, be the hallmarks of any civil servant.

14. Article 9 of Ministerial Resolution No. 601/2009 states: “The Ministry of Labor, Employment, and Social Security...shall issue circulars containing directives on the implementation of legal provisions that shall be mandatory for all government entities at all administrative levels.”

15. Available at: http://www.oas.org/juridico/PDFs/mesicic4_blv_dec29894.pdf

16. See the presentation by the DGSC during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

17. Available at: http://www.oas.org/juridico/PDFs/mesicic4_blv_const.pdf

18. Available at: www.oas.org/juridico/english/mesicic_rules.pdf

19. Available at: http://www.oas.org/juridico/spanish/mesicic2_blv_leand_2027_sp.pdf

20. Available at: http://www.oas.org/juridico/spanish/mesicic2_blv_ley_2104_sp.pdf

21. Available at: http://www.oas.org/juridico/spanish/mesicic2_blv_decreto_25749_sp.pdf

22. Available at: http://www.oas.org/juridico/spanish/mesicic2_blv_ley_1178_sap_sp.pdf

[22] Here, too, the Committee acknowledges the efforts being made by the country under review to strengthen its civil servant recruitment system and align it with the new Constitution. An example of that is the preliminary draft Civil Servant Law^{23/} prepared in 2010 by the Ministry of Labor, Employment, and Social Security (hereinafter referred to by its Spanish acronym “MTEPS”) to replace the CSS and regulate labor relation between the country and “*civil servants, establishing their rights and duties and the conditions governing the civil service and a career in the administration, public ethics, and labor and disciplinary regimes, within the framework set forth in the Political Constitution of the State*”.

Measure (b) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Develop, through the corresponding procedures, the modality of recruitment by direct invitation of what are known as freely-appointed public servants based on the principles of merit, competence, equality, and transparency, ensuring its publicity, equity, and efficiency in hiring.

[23] With respect to the foregoing measure, the country under review indicates in its reply^{24/} that government entities are responsible for drafting their own Staff Rules (*Reglamentos Específicos del Sistema de Administración de Personal*), based on Article 6 of the NB-SAP, and that they should contain, inter alia, the requirements and conditions governing the recruitment of staff, including freely-appointed personnel, subject to any provisions issued to that end by the organ in charge of the Personnel Administration System (SAP).^{25/}

[24] However, judging by the country’s reply to the questionnaire and information gathered during the on-site visit, the Committee points out that no additional regulations have been issued to strengthen the provision of freely-appointed positions through selection procedures based on the principles of merit, competence, equality, and transparency as envisaged in the suggested measure. On the contrary, the NB-SAP in effect still provides for positions in this category being filled through direct invitation.

[25] Accordingly, the Committee reiterates the considerations and conclusions contained in the Second Round report^{26/} regarding this matter, and urges the country under review to devote further attention to implementing measure (b) of previous Recommendation 1.1.1. (See Recommendation 1.1.3.2 in Section 1.1.3 of Chapter II of this report.)

Measure (c) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Adopt, through applicable procedures, rules and mechanisms regulating the hiring into the public administration of temporary personnel and personnel who provide specific or specialized services that ensure reliable verification of the suitability, merits, competence, and attitude towards work that are adequate for the performance of their functions.

23. Available at: <http://goo.gl/krb11b>

24. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.53, supra note 11.

25. The Vice Ministry of Budget and Fiscal Accounting of the Economy and Public Finance, through its Directorate of Public Management Rules is the governing body of the SAP, according to S.D. No. 29894

26. See “Report on Implementation in Bolivia of the Convention Provisions Selected for Review in the Second Round, and on Follow-Up to the Recommendations Formulated to That Country in the First Round,” p. 7, supra note 11.

[26] In its reply,^{27/} the country under review presents information and comments on 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:

[27] Supreme Decree No. 0181^{28/} on Basic Standards of the Goods and Services Administration System, issued on June 28, 2009 (hereinafter “S.D. No. 0181”). This Supreme Decree replaced the previous S.D. No. 29190 of 2007 in order to make public hiring procedures more efficient, expeditious, and transparent. It also applies to procedures relating to the provision of specific or specialized services, known as individual on-line consultancies^{29/} and product-based consultancies.^{30/}

[28] For these purposes, the Ministry of Economy and Public Finance, through its General Directorate of Public Management Standards (hereinafter “DGNGP”), prepared a Model Base Document for Hiring Consulting Services^{31/} under the National Support for Production and Employment (ANPE) guidelines adopted by Ministerial Resolution No. 274 of 2013, aimed at regulating the procedures, conditions, and requirements for these kinds of contract, including a model contract.

[29] Here, the Committee takes note of the steps taken by the country under review to move toward implementing measure (c) of Recommendation 1.1.1 of Chapter II of this report, as reflected mainly in the promulgation of S.D. No. 0181 and in the drafting of the Model Base Document for Hiring Consulting Services. However, based on the information at its disposal, the Committee only identifies in these documents provisions that establish that the terms of reference are required in order to determine working qualifications for the consultancy, as well as hiring procedures through public hiring procedures.

[30] It is important to point out that during the on-site visit, a number of inquiries were made as to the number and percentage of temporary personnel and/or *on-line consultants* currently working in the public sector, the legal nature of their contracts, their remuneration and benefits.

[31] In response to those inquiries, the country under review pointed out, first, that it lacks exact figures regarding the number and percentage of temporary personnel and/or *on-line consultants* currently engaged in work for the public sector. Second, as regards the legal nature of those contracts, it explained that they are administrative contracts, in which the government entity doing the hiring establishes the contractual terms, deadlines and other conditions based on the above-mentioned Model Base Document. Third, with respect to remuneration and benefits, the country under review pointed out that *on-line consultants* ought to receive the same pay as civil servants performing equivalent functions, but not the same benefits. For that reason, the Committee was told, the country under review wished to take on the challenge of gradually eliminating those kinds of contractual ties to public service.

27. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.54, supra note 11:

28. Available at: <http://medios.economiayfinanzas.gob.bo/VPC/documentos/decretos/DS181.pdf>

29. These are services provided by an individual consultant to carry out recurrent activities or tasks on an exclusive basis in the contracting entity, in accordance with the terms of reference and conditions established in a contract (Article 5.qq, of S.D. No. 0181).

30. These are services provided by an individual consultant or consulting firm for a set period of time in order to achieve a product or result specified in contractual terms of reference and conditions (Article 5.rr of S.D. No. 0181).

31. Available at: https://www.sicoes.gob.bo/normativa/docs/DBC-ANPE_CONSULTORIA.pdf

[32] Regarding this matter, even though the country under review lacks statistics on the number of temporary personnel and/or *on-line consultants* currently working for the Public Administration, the Committee, based on published State Hiring System data (hereinafter “SICOES”)^{32/}, notes, for example, that more than 19,000 hiring processes were initiated between January 2010 and January 2015, which, even without knowing how many of those processes concerned *on-line consulting services*. If that were to be the case, in addition to violating Article III.5 of the Convention regarding the establishment, maintenance, and strengthening of civil service hiring systems ensuring transparency, fairness and efficiency, it would also violate the labor rights of those hired in that manner, particularly since, pursuant to Article 6 of the CSS, *on-line consultants* are not subject to that Statute or to the General Labor Law and their rights and obligations are bound only by the terms of their contract and by the documents regarding the hiring process.

[33] For the Committee, this possible increase in *on-line consultants* in government entities could be a result of budgetary considerations, given that it is clearly more cost-effective for those entities to hire personnel of this kind, who receive no benefits other than their wage in return for providing recurrent professional, technical, and administrative services, rather than civil servants, who, in addition to their salary, are paid and enjoy all the rights, perks, and benefits owed to them as civil servants.

[34] In addition to the above, the “*Ombudsperson's Report on the Nature and Violation of the Right to Equality of Individual On-Line Consultants*”^{33/} prepared by the Ombudsperson's Office of the Plurinational State of Bolivia in April 2014, to which the Committee had access, concludes and suggests, inter alia, that “*mindful of the contractual relationship of an administrative nature between on-line consultants and the country that, nonetheless, in practice, exhibits the essential features of a labor contract, such as personal provision of services, payment of remuneration, the existence of subordination, the existence of recurrent functions, and exclusivity, this Office recommends that the Plurinational Legislative Assembly prepare rules regulating the labor status of on-line consultants, taking into account the principles and rights set forth in this report*” and “*and that meanwhile it proceed to find ways to assimilate individual on-line consultants as civil servant staff and recommend to the Ministry of Economy and Public Finance that it budget the resources needed to achieve effective observance of the rights and benefits owed to civil servants...*”^{33/}

[35] In light of the above, the Committee deems it appropriate to re-frame measure (c) of foregoing Recommendation 1.1.1 in such a way as to focus on the aforementioned aspects. (See Recommendations 1.1.3.3 to 1.1.3.6 in Section 1.1.3 of Chapter II of this report.)

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

Promote, in keeping with the NB-SAP, the preparation and updating of the Specific Regulation of the System of Personnel Management in the public sector entities indicated in the SAFCO Law and in the EFP and, at the same time, grant the SNAP, as the lead agency of the system, the monitoring powers needed to verify adequate fulfillment of this obligation.

32. See <http://www.sicoes.gob.bo>

33. See the “Ombudsperson's Report on the Nature and Violation of the Right to Equality of Individual On-Line Consultants,” p.29, available at: [http://www.defensoria.gob.bo/archivos/informe CONSULT_1_baja_carta.pdf](http://www.defensoria.gob.bo/archivos/informe_CONSULT_1_baja_carta.pdf)

[36] With regard to the foregoing measure, in its reply,^{34/} the country under review said that, bearing in mind that neither the NB-SAP nor the EFP had been modified, measures had not been taken to update the Specific Regulations of the SAP.

[37] In that regard, reiterating the observations and conclusions that it made in the report from the Second Round on this subject,^{35/} the Committee will reword measure (d) of foregoing Recommendation 1.1.1 based on the clarifications provided by the country under review in its reply to the questionnaire and considerations aired during the on-site visit on modifications made to the rules on and implementation of the SAP described below in connection with the implementation of measure (f) of this same recommendation. (See recommendation 1.1.3.7 in Section 1.1.3 of Chapter II of this report).

Measure (e) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

See to it that the corresponding authority adopts provisions aimed at preventing and punishing nepotism in public service

[38] In its reply,^{36/} the country under review presents 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:

[39] The new Constitution of 2009, Article 236 of which prohibits “*appointing to public office relatives within the fourth degree of consanguinity and second degree of affinity*”

[40] The Finance Law – National Budget (*Presupuesto General del Estado*) – Fiscal Year 2010^{37/}, Article 20.j of which established^{38/} that “*no civil servant may serve in the same entity as someone to whom he or she is married, or living with in a common law marriage, or who is a relative within the fourth degree of consanguinity and second degree of affinity.*”

[41] The bill prepared by the MTILC on conflicts of interest and nepotism in public office, which, according to the reply to the questionnaire,^{39/} by the country under review is currently being revised. However, during the on-site visit, the MTILC itself pointed out that said bill, intended to develop the constitutional clauses on the subject, including the impediment against not only appointing officials but also exercising public functions when a degree of relationship exists has been put on hold inasmuch as the country deems it advisable that its provisions be included in the bills on Public Administration, Civil Servants, and Planning currently being devised by various entities with a view to bringing those regimes into line with the current constitutional framework.

34. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 55, *supra* note 11.

35. See Report on Bolivia from the Second Round, p. 8, *supra* note 3.

36. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.56, *supra* note 11.

37. Available at: http://medios.economiayfinanzas.gob.bo/VPT/documentos/leyes/PGE_2010.pdf

38. That prohibition remained in force until fiscal year 2014.

39. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.57, *supra* note 11.

[42] Thus, the Committee takes note of the steps undertaken by the country under review to move ahead with implementing measure (e) of foregoing Recommendation 1.1.1, and reiterates its considerations and the conclusions it set forth in the Second Round report^{40/} with respect to this matter, while urging the country under review to keep seeing to its implementation. (See Recommendation 1.1.3.8 in Section 1.1.3 of Chapter II of this report.)

Measure (f) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Continue strengthening the lead agencies of the SAP, especially the National System of Personnel Management (SNAP) and the Superintendency of the Civil Service (SSC), in the functions they perform with respect to the administration and control of the systems for hiring public servants, endowing them with the resources needed for properly performing their functions and establishing mechanisms that make possible the institutional coordination of their actions and ongoing evaluation and monitoring of those actions.

[43] With regard to the foregoing measure, in its reply^{41/} to the questionnaire the country under review does not provide any information as to its implementation. However, it does point out that Article 58, paragraph I of the CSS, as amended by Article 4 of Law 2014 of June 2000, provided for the establishment of the SSC under what was then the Ministry of Labor and Microenterprise, the SSC was then superseded by virtue of Article 139 of S.D. No. 29894 on the Organization of the Executive, amended by S.D. No. 071 of April 2009, where its functions were taken over by what is now the DGSC, which currently supervises civil service rules and practices in the government entities within the scope of the aforementioned CSS.

[44] For its part, Article 12 of S.D. No. 0212 of July 2009^{42/}, which establishes the Plurinational Public Administration School (hereinafter “EGPP”) as a decentralized government entity designed to help build and consolidate the new public administration by educating and training civil servants for the various levels of government, orders the *closing down* of the National System of Personnel Management (SNAP) and the transfer of all its assets and infrastructure to the EGPP.

[45] Mindful of the above, during the on-site visit, the DGSC representative clarified the scope of the changes made with regard to the role and implementation of the SAP, pointing out that, subject to S.D. No. 29894 on the Organization of the Executive, that Directorate is today the System’s *regulatory body* given, inter alia, its function of issuing regulatory provisions regarding labor relations between the State and civil servants. Likewise, pursuant to S.D. No. 29894, the Office of the Director General of Public Administration Standards (hereinafter “DGNGP”) of the Ministry of Economy and Public Finance now functions as the *governing body* of the SAP given that it is the technical body responsible for designing and developing the new plurinational public administration model, which includes, among other functions, managing this system.

40. See “Report on Implementation in Bolivia of the Convention Provisions Selected for Review in the Second Round, and on Follow-Up to the Recommendations Formulated to That Country in the First Round,” p. 8, supra note 11.

41. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.58 and 59, supra note 11.

42. Available at: <http://www.lexivox.org/norms/BO-DS-N212.pdf>

[46] In addition to the above and without prejudice to their having recently been assigned functions that render them the *regulatory* and *governing* bodies of the SAP, during the on-site visit, the representatives of both Directorates agreed on the importance of and need for more human and financial resources to enable them to fully perform those functions.

[47] Accordingly, the Committee will reformulate measure (f) of foregoing Recommendation 1.1.1 based on the clarifications provided by the country under review in its reply to the questionnaire and considerations aired during the on-site visit. (See Recommendations 1.1.3.9 and 1.1.3.10 in Section 1.1.3 of Chapter II of this report.)

Measure (g) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Implement prior training programs and courses so that those who enter the public service know their duties of probity and the functions inherent to their position.

[48] In its reply^{43/} to the questionnaire, the country under review provides information and comments on new developments with regard to the foregoing measure. Nevertheless, in reviewing its implementation, the Committee will draw on the conclusions and recommendations it puts forward in Chapter II, Section III of this report, bearing in mind that, in that section it will conduct an updated and detailed analysis of the implementation of the provision set forth Article III.3 of the Convention, which refers to “*Instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities*”, which ties in closely with the subject referred to in measure (g), as cited above.

Recommendation 1.1.2:

Strengthen the systems for contracting public servants in the Legislative branch.

Measure suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Have the corresponding authority adopt clearer and more specific provisions that regulate the system for hiring public servants in the legislature based on the principles of merit and equality, including oversight mechanisms and lead authorities or administrators of the system; mechanisms for disseminating vacancies to be filled; as well as challenge remedies that seek to clarify, modify, or overturn substantive acts in selection processes.

[49] Both in its reply to the questionnaire^{44/} and during the on-site visit, the country under review presented information and commented on new developments with respect to the above recommendation and measure. In this regard, the Committee notes the following as steps that lead it to believe that they have been satisfactorily considered:

43. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.59 to 61, supra note 11.

44. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.62 to 68, supra note 11.

[50] Since entry into force of the new Constitution (of 2009), what is now called the Legislative Body comprises the Chamber of Deputies and the Senate, which together make up the Plurinational Legislative Assembly (hereinafter “ALP”, by its Spanish acronym).

[51] Thus, through Administrative Resolution No. 539/2012-2013^{45/} of November 14, 2012, the Chamber of Deputies adopted the Internal Rules of Procedure (*Reglamento Específico*) of the SAP pursuant to the CSS and the NB-SAP. Those Rules of Procedure, which are binding for all public servants in the Chamber, regulate, inter alia, the classification, ranking, and remuneration of positions, the quantification of the demand for personnel and analysis of the internal supply of personnel, the human resources training plan, individual annual operating plans, the initial training and integration of personnel, and performance evaluation.

[52] Specifically with regard to staffing, these Rules of Procedure establish, along with other procedures, the processes to be followed for recruitment and selection^{46/}, and the inclusion of government personnel as career members of the civil service provided for by the CSS and the NB-SAP.

[53] Another regulatory instrument designed to strengthen the process for hiring public servants in the Chamber of Deputies is the job profile, which is updated via Individual Annual Operating Plans (hereinafter “POAI”) approved by Administrative Resolution No. 857/2014-2015^{47/} of November 10, 2014. According to the country’s reply, this instrument “*amounts to a substantive extra tool that defines and establishes objectives, functions, and expected performance results for each post and, above all, job specifications in the sense of the personal and professional requirements that go with each job and which the person in that position should possess....*”^{48/}.

[54] As far as the Senate is concerned, its actions to implement the aforementioned measure also include drawing up its Internal Rules of Procedure of the SAP, adopted through Executive Resolution 036/2013-2014 of April 19, 2013 pursuant to the CSS and the NB-SAP. This instrument, like the Internal Rules of Procedure of the Chamber of Deputies, regulates staff recruitment and selection processes, performance evaluation, training, promotion, and registration of public servants employed in the Senate.

[55] In addition, the Senate also adopted its Internal Staff Rules through Executive Resolution No. 035/2013-2014^{49/} of April 19, 2013 and Executive Resolution No. 0103/2014 of July 23, 2014, Chapter X of which details the appeals for reversal of decisions and appeals to higher administrative bodies applicable to administrative decisions regarding the admission, promotion, and resignation of career civil servants in accordance with the NB-SAP. Through Executive Decision No. 008/2012-2013 of February 6, 2012, the Senate likewise adopted its General Regulations^{50/}, Article 3 of which refers to the equal opportunity principles and values, transparency, non-discrimination, and accountability that govern the performance of this Chamber's functions.

45. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_cam_dip_reg_esp_sis_adm_per.pdf

46. See Article 14 of the Internal Rules of Procedure of the Chamber of Deputies/

47. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_cam_dip_res_adm_857_apr_poi_2014_2015.pdf

48. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.64, supra note 11.

49. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_cam_sen_reg_int_per.pdf

50. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_cam_sen_reg_gen.pdf

[56] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of foregoing Recommendation 1.1.2 and the measure suggested of having both Chambers adopt provisions regulating the system for hiring public servants to work in the legislature, based on the principles of merit and equality and including, moreover, oversight mechanisms and procedures for publicizing vacancies, as well as appeal options for clarifying, amending, or revoking substantive acts in selection processes in the legislature.

[57] Nonetheless, in both the reply of the country under review to the questionnaire^{51/} and during the on-site visit, the representatives of the Senate^{52/} and of the Chamber of Deputies stated that the rules developed with respect to implementing the measure suggested by the Committee were prepared and adopted in accordance with and pursuant to the general rules governing the hiring of public servants contemplated in the CSS and in the NB-SAP. However, these rules do not provide for “...a special administrative career path for the Legislature based on the nature and functions of that body, as is found in the Judicial roster where a special career path is recognized under Article 3 of the Civil Servant Statute...”^{53/}

[58] Regarding this matter, during the on-site visit, the representatives of both Chambers pointed out the need to strengthen the specific or special administrative career path for public servants in the legislature to reduce the hiring of temporary and/or freely appointable staff in both Chambers.

[59] The representative of the Senate pointed out, moreover, that today's hiring rules do not provide for the coexistence of the political and administrative spheres inherent in the functions performed by legislative bodies nor the “different ways in which legislative and executive bodies perceive organizational and operational factors.” That is why there is a need for “...a specific regulatory body for the Legislature, that would provide for an appropriate and differentiated administrative career, taking its particular organizational structure and specific spheres of competence into account.”^{54/}

[60] In the reply^{55/} to the questionnaire by the country under review, the Chamber of Deputies, for its part, points out that, with a view to aligning itself with the Institutional Strategic Plan, in 2015 it will update its Internal Rules of Procedure of the SAP, draw up and implement its positions manual, and also update the POAI, all of which will make it possible to develop a *plan for alignment with the administrative career* which will gradually allow it to incorporate its public servants in an administrative career based on the principles upheld in the new Constitution.

[61] Accordingly, without prejudice to the intention to institute a special administrative career path for the Legislature within the process of adapting the rules on hiring public servants to the new Constitution, specifically in the Civil Servant bill mentioned above, the Committee will formulate a recommendation aimed at establishing an appropriate and differentiated administrative career path in

51. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.65, supra note 11.

52. See the presentation by the Senate during the on-site visit, available at:
http://www.oas.org/juridico/spanish/mesicic5_blv.htm

53. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.67, supra note 11.

54. See the presentation by the Senate during the on-site visit, available at:
http://www.oas.org/juridico/spanish/mesicic5_blv.htm

55. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.67, supra note 11.

the Legislature that takes the particular organizational features of that branch of government and its specific spheres of competence into account. (See Recommendation 1.1.3.11 in Section 1.1.3 of Chapter II of this report.)

Recommendation 1.1.3:

Supplement the systems for hiring public servants in the judicial branch.

Measure suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Adopt, through the corresponding procedures, mechanisms that establish clearly defined criteria on the dissemination of job opportunities in the Judicial branch or the vacancies or positions to be filled, their content and form, as well as the lead time with which they must be published, it being possible to use the mass media, such as national circulation newspapers and/or websites.

[62] Both in its reply to the questionnaire^{56/} and during the on-site visit, the country under review presented information and commented on new developments with respect to the above recommendation and measure. In this regard, the Committee notes the following as steps that lead it to believe that they have been satisfactorily considered:

[63] Law No. 025 on the Judiciary (hereinafter “Law No.025”) was promulgated on June 24, 2010^{57/}, radically altering the structure of this branch of government. Since it entered into force, the hiring of public servants in the Judiciary can be envisaged under two headings: a) administrative servants or officials reporting to the Administrative and Financial Directorate^{58/} (hereinafter “DAF”) and b) adjudicatory public servants reporting to Judicial Council^{59/}.

[64] With regard to the rules on hiring administrative civil servants in the Judiciary, which are governed by the general legal framework established in the CSS and the NB-SAP controlled by the DAF, the Committee will formulate its comments and observations as part of its review of Law NO. 025 in Chapter II, Section 1.1.2 of this report as a new development relating to implementation of Article III.5 of the Convention.

[65] Thus, as regards the framework for hiring jurisdictional civil servants, the Judicial Council, in the exercise of its constitutional and legal powers, has been publicizing notifications of vacancies in both its official Internet portal^{60/} and in national-circulation newspapers. Furthermore, based on

56. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.62 to 68, supra note 11.

57. Available at: <http://www.unicen.edu.bo/leyes/LEY%20N%C2%BA%20025-2010.PDF>

58. According to Article 226 of Law No. 025, the DAF “...is a decentralized and technically, economically and financially autonomous juristic person responsible for administrative and financial management of ordinary and agricultural/environmental jurisdictions and the Judicial Council. It performs its functions throughout the national territory and may establish departmental offices.”

59. Article 164 of Law No. 025 provides that the Judicial Council “...is part of the Judiciary and is responsible for enforcing the disciplinary rules applicable to ordinary, agricultural/environmental and specialized jurisdictions; for oversight and monitoring of their administrative and financial handling of the formulation of management policies.” In addition, Article 183.IV of Law No.025 establishes the powers assigned to the Judicial Council in respect of human resources.

60. See <http://magistratura.organojudicial.gob.bo/index.php/convocatorias>

information provided during the on-site visit^{61/}, the Committee gathers that the Judicial Council also reaches *agreements* on the criteria that have to be met to compete for adjudicatory job vacancies occurring in the Judiciary. It is also worth noting that, in order to make a wider audience aware of its job vacancies, the Judicial Council has also devised an application^{62/} for *smartphones*, that accesses those notifications.

[66] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of foregoing Recommendation 1.1.3 and the measure suggested.

Recommendation 1.1.4:

Supplement the systems for hiring public servants in the Public Prosecution Service (*Ministerio Público de la Nación*).

Measure suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Implement, by the corresponding authority and based on the principles of due process and legality, mechanisms for bringing challenges that seek to clarify, modify, or overturn substantive acts in the processes for selection of personnel in the Public Prosecution Service.

[67] Both in its reply to the questionnaire^{63/} and during the on-site visit, the State under review presented information and commented on new developments with respect to the above recommendation and measure. In this regard, the Committee notes the following as steps that lead it to believe that they have been satisfactorily considered:

[68] Law No. 260, the Organizational Law of the Public Prosecution Service^{64/} (hereinafter “LOMP”) as promulgated on June 11, 2012. In this regard, during its on-site visit, the representative of this State institution pointed out that, pursuant to the first chapter in Title V of the LOMP, “...*the career path for public prosecutors is set out in the rules governing the admission, appointment, period of employment and/or dismissal of prosecutors in the Public Prosecution Service, based on recognition of the prosecutor's merits and ongoing accreditation of knowledge and legal training, as envisaged in the Regulations.*”

[69] *Adapting (sic) in this way its scope and internal structure to the special regulations; that being so, it should be pointed out that, the career path for prosecutors, conceived of as a system, takes the Regulations on the Career Path of Prosecutors in the Public Prosecution Services^{65/} as a guarantee that internal and external notifications of vacancies are issues as part of transparent selection processes, which recognize the right of candidates to challenge the decision taken (Article 10. b; Article 12. III; Article. 15. d)); and specifically in Articles 29 and 30 Section Six of Chapter I under*

61. See the presentation by the Judicial Council during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

62. Available at: <https://play.google.com/store/apps/details?id=com.consejomagistratura>

63. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.62 to 68, note xx above.

64. Available at: http://www.fiscalia.gob.bo/webfiscalia/images/ley260_print.pdf

65. Available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

Title II, “Challenges”, which establishes the procedure and deadlines for filing appeals and their resolution..”^{66/}

[70] It is, further, important to point out that, pursuant to Article 30.18 of the LOMP, it is the responsibility of the Attorney General to appoint, remove, transfer, suspend, or dismiss administrative personnel of the Public Prosecution Service in accordance with regulations.

[71] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of foregoing Recommendation 1.1.4 and the suggested measure.

Recommendation 1.1.5 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

The SSC should maintain the registry of information on the entry, evaluation, permanence, mobility, and retirement of career service staff, in coordination with the SNAP, in keeping with Article 61(e) of the EFP.

[72] Both in its reply to the questionnaire^{67/} and during the on-site visit, the country under review presented information and new developments with respect to the above recommendation. In this regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[73] Pursuant to Article 61.e of the CSS and Article 57.c of S.D. No. 071^{68/}, the former SSC, now DGSC, through so-called *circulars*, has been periodically requesting information from various government entities on the admission, evaluation, permanence, mobility, and retirement of their staff. It does so in order to feed and update the State roster of civil servants, as the sole repository of personal data and records of the career path, statements of conflicts of interest or disqualifications, and sworn statements of assets and other income of civil servants.

[74] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of the foregoing recommendation that the DGSC continue to maintain the State roster of civil servants that by law it is required to administer.

[75] Nevertheless, it transpires from both the reply by the country under review to the questionnaire^{69/} and from information provided during the on-site visit, that in July 2014 the DGSC issued a new request for information^{70/} from government entities, using an electronic form^{71/}, on the civil servants in those entities with a view to constructing the new “*Sole State Register of Public Servants*” (hereinafter “RUESS”).

66. See the presentation by the Public Prosecution Service during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

67. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, pp.72 and 73, supra note 11.

68. Available at: http://medios.economiayfinanzas.gob.bo/VPC/documentos/decretos/D_S_0071.pdf

69. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.65, supra note 11:

70. The RUESS comprises six kinds of records, which have to be provided in the form of a sworn statement by the human resources unit in each government institution. They are: personal data, educational records, data pertaining to the position held, disability data, qualifications (compatibilidad), and administrative career data.

71. Available at: <http://www.mintrabajo.gob.bo/Descargas/DGSC/Formulario%20de%20RUESS%20v.1.0.xlsm>

[76] Regarding this matter, during the on-site visit, the representative of the DGSC said that there had been more than 70% compliance with the requirement to fill in the form. Among the reasons cited for failure to comply by the remaining 30% were: lack of connectivity, distance, and mistakes about the institutions (*confusión de las instituciones*). However, based on information received and pending, the representative of the DGSC pointed out that, in cooperation with other State institutions, it is developing a new I.T. platform for storing, organizing, and sharing that information “*in such a way that it would be interactive and interoperable, i.e. administered through interfaces linking public administration systems*”^{72/}. The DGSC said it expected the platform to be up and running in fiscal year 2016, so the Committee will formulate a recommendation in that regard. (See Recommendation 1.1.3.12 in Section 1.1.3 of Chapter II of this report.)

1.1.2. New developments with respect to the provision of the Convention on the systems of government hiring

1.1.2.1. New developments with respect to the legal framework

a) Scope

- - Legislative and other legal provisions applicable to a majority of public servants, such as the following:

[77] - The Constitution (CPE), which establishes, in the fourth Chapter of Title V, the new constitutional regime for civil servants and states that the guiding principles for public administration shall be: legitimacy, legality, impartiality, publicity, social commitment and the social interest, ethics, transparency, equality, competition, efficiency, quality, human warmth, honesty, accountability, and the achievement of results. Article 223 of the Constitution defines public servants as those who perform government functions and thus pertain to the administrative career service, with the exception of persons serving in elective office, or who are designated or “freely” (discretionally) appointed.

[78] This chapter in the Constitution also establishes the requirements to be met in order to perform government functions, the obligations of public servants, prohibitions and incompatibilities for exercising government functions, grounds for ineligibility for elective office, and the possibility of revoking the mandates of those holding elective office.

[79] - Supreme Decree No. 0181, described in foregoing Section 1.1.1 of this report, which replaced the previous S.D. No. 29190 of 2007 in order to make government hiring procedures more efficient, expeditious, and transparent.

[80] – The updating by the MTEPS of the Regulations governing Procedures for Admission into the Administrative Career Service, adopted by Ministerial Resolution No. 699/14^{73/} of October 2014, on Supervision, adopted by Ministerial Resolution No. 709/14^{74/} of October 2014, and the Authorization

72. See the reply by the Plurinational State of Bolivia to the questionnaire with respect to follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round, as well as with respect to the provisions of the Convention selected for the Fifth Round, p.73, supra note 11.

73. Available at: <http://www.mintrabajo.gob.bo/Upload/Normativa/NOR-98-19112014/RM-699-14.pdf>

74. Available at: <http://www.mintrabajo.gob.bo/Upload/Normativa/NOR-99-19112014/RM-709-14.pdf>

and Certification of Private Entities Specializing in Public Sector Recruitment, adopted by Ministerial Resolution No. 711/14^{75/} of October 2014.

[81] In its response to the questionnaire,^{76/} the country under review notes other provisions that are also related to the systems of government hiring.

- Legal provisions of distinct nature applicable to public servants in the Legislative Branch of government.

[82] - The Constitution which -- in the first chapter of Title I of Part II -- establishes the composition and powers of the Plurinational Legislative Assembly (ALP). Articles 159.5 and 160.5 provide, respectively, that the Chamber of Deputies and the Senate are empowered to “*adopt and execute [their] budget; appoint and dismiss [their] administrative personnel, and handle all matters relating to their finances and internal rules and regulations.*”

[83] – The Chamber of Deputies' Internal Rules of Procedure of the SAP , described in foregoing Section 1.1.1, which were adopted in November 2012 through Administrative Resolution No. 539/2012-2013 pursuant to the CSS and the NB-SAP.

[84] – The Senate's Internal Rules of Procedure of the SAP, described in foregoing Section 1.1.1, which were adopted through Executive Resolution No. 036/2013-2014 of April 2013 pursuant to the CSS and the NB-SAP.

[85] – The Senate's internal Staff Rules, described in foregoing Section 1.1.1 anterior, adopted through Executive Resolution No. 035/2013-2014 of April 2013 and Executive Resolution No. 0103/2014 of July 2014

[86] – The General Regulations of the Senate, described in foregoing Section 1.1.1, adopted through Executive Resolution No. 008/2012-2013 of February 2012.

[87] –Administrative Resolution No. 857/2014-2015 of November 2014, described in foregoing Section 1.1.1, which updates the POAI of the Chamber of Deputies.

- Legal provisions of distinct nature applicable to public servants in the Judiciary, including in particular:

[88] – Article 179 of the Constitution, which establishes that judicial functions shall be exercised uniformly throughout the country by the Judiciary through the following jurisdictions: ordinary (exercised by the Supreme Court of Justice, hereinafter referred to as the “TSJ”, the departmental courts of justice, trial courts [*tribunales de sentencia*] and tribunals [*juzgados*]; agricultural/environmental (exercised by the Agricultural/Environmental Court and tribunals); special (regulated by law); and rural native indigenous (exercised by those communities' authorities, rules, and procedures). This Article further provides that constitutional justice shall be exercised by the Plurinational Constitutional Court (hereinafter “TCP”) and that the ordinary jurisdiction and the rural native indigenous jurisdiction have equal standing. In addition, it points out that the Judicial Council forms part of the Judiciary.

75. Available at: <http://www.mintrabajo.gob.bo/Upload/Normativa/NOR-101-19112014/RM-711-14.pdf>

76. See the reply of the Plurinational State of Bolivia to the questionnaire, at p. 117 and 118, supra note 11.

[89] Article 181 of the CPE provides that the Supreme Court of Justice is the highest tribunal in the ordinary jurisdiction. In this connection, the CPE provides that its judges shall be elected by universal suffrage [Article 182(I)] and that applicants shall be preselected by the Plurinational Legislative Assembly by a vote in favor of two thirds of the members present [Article 182(II)]. The term of each TSJ judge shall be six years and they may not be reelected [Article 183(I)]. Furthermore, Articles 188 (I) and 198 of the Constitution establish, respectively, that the judges of the Agricultural/Environmental Court and those of the TCP shall also be elected by universal suffrage, with the same procedure, mechanism, and formalities as for members of the TSJ.

[90] As for the Judicial Council Article 194 (I) of the Constitution provides that its members shall also be elected by universal suffrage, but from a slate of candidates proposed by the ALP.

[91] – Law No. 025 of June 2010, mentioned in foregoing Section 1.1.1, regulating the structure, organization, and modus operandi of the Judiciary. Chapter IV of the Law, which refers to the mandate assigned to personnel in the judiciary, establishes the requirements to be met to apply for a position in the ordinary and agricultural/environmental jurisdictions (Article 18), prohibitions and grounds for ineligibility and incompatibility for the performance of judicial functions (Article 19 and 22), and the grounds for dismissing members of tribunals, judges, or justice system personnel in the ordinary, agricultural/environmental, and specialized jurisdictions (Article 23).

[92] Article 20 regulates application and pre-selection procedures required for election as a judge in the TSJ or Agricultural/Environmental Court. For their part, Articles 169 to 178 regulate the same kind of regulations for the election of members of the Judicial Council.

[93] Specifically with respect to Judiciary personnel, Article 183 (IV) of the Law establishes the human resource prerogatives of the Judicial Council and grants it, inter alia, authority to administer pre-selection, selection, and appointment processes through exams and scrutiny of qualification for positions as members of tribunals, judges, judiciary support staff, and administrative personnel.

[94] Article 215 establishes the judicial career path for judges only. It provides for their continuity and tenure in the performance of their judicial functions so long as they demonstrate professionalism and honesty and receive positive evaluations of their performance. Paragraphs II and III of the same Article state, respectively, that the Judicial Council will establish a judicial career system open to qualified professional attorneys and will approve, inter alia, the regulations governing the admissions subsystem and the selection process, including the invitation to prequalify and examination of qualifications or final results of those graduating from the State School for judges.

[95] It is worth noting, too, that Articles 7(II) and 226 of Law No.025 establish the DAF referred to in foregoing Section 1.1.1 as “...a *decentralized and technically, economically and financially autonomous juristic person responsible for administrative and financial management of ordinary and agricultural/environmental jurisdictions and the Judicial Council.*”

[96] – Judicial Career Regulations,^{77/} Articles 12 *et seq.* of which govern the judicial career admissions subsystem, including competitions based on merit and competitive examinations, as well as the promotion of graduates from the State School for Judges.

77. Available at: <http://www.mintrabajo.gob.bo/Upload/Normativa/NOR-98-19112014/RM-699-14.pdf>

- Legal provisions of a distinct nature applicable to public servants in the Public Prosecution Service, including in particular:

[97] – The Constitution which, in Section II of Chapter II of Title V, establishes the objectives and functions of the Public Prosecution Service. Article 226 establishes that the Attorney General heads and represents the institution, while Article 227 establishes that he or she shall be appointed by two thirds of the votes of the members of the Plurinational Legislative Assembly present at the time of the vote. Prior public notification of the appointment shall be given and candidates' professional qualifications and merits shall be examined through a public competitive process. The Attorney General must satisfy all the general requirements for civil servants as well as specific requirements established by the Supreme Court judges and shall perform her or his functions for a single six-year term. Article 228 precludes re-appointment.

[98] – The LOMP of June 2012, mentioned in foregoing Section 1.1.1, regulating the organizational structure, powers, and modus operandi of the Public Prosecution Service. Articles 19 to 24 establish the general requirements for appointment, impediments, disqualifications, prohibitions, rights, as well as the termination and dismissal of public prosecutors, while Articles 28, 29, and 30 establish the appointment and term of office, the requirements, and functions of the Attorney General. Specifically, Article 30.18 establishes as one of those functions the authority to appoint, remove, transfer, suspend, and dismiss administrative personnel of the Public Prosecution Service in accordance with the regulations (in the case of the personnel working in Departmental Public Prosecutors' Offices, the Attorney General shall exercise such authority at the behest of the Departmental Prosecutor).

[99] Chapter III of the LOMP establishes the rules governing personnel providing ancillary services to public prosecutors and specialized counseling and indicates, in addition to the general requirements for public servants, the specific requirements to be met by candidates for the positions of assistant public prosecutor and auxiliary (Articles 42 and 43). In addition, Article 44 states that, through a resolution explaining his or her reasons, the Attorney General or the Departmental Prosecutors shall, at the request of the Prosecutor in a specific subject matter case (*Fiscal de Materia*) provide for the hiring of specialized advisors for cases that require them. They shall be regarded as temporary, not permanent, personnel

[100] For its part, Article 91 establishes the public prosecutor career path as the system governing the admittance, appointment, tenure and/or dismissal of prosecutors in the Public Prosecution Service. This is based on recognition of the prosecutor's merits and ongoing accreditation of knowledge and legal training, as envisaged in the Regulations, and internal or external notices of vacancies will depend on the needs of the Service and vacancies occurring within the structure of the Public Prosecution Service. In all cases, gender equality shall be guaranteed and persons from indigenous and rural native peoples and nations shall be included, with the highest scores counting. Tenure and promotion for prosecutors, in the performance of their functions are guaranteed by the prosecutors' career path, and they shall only be removed in cases specified by law (Article 92).

[101] According to Article 93, only senior and specific subject matter prosecutors shall be governed by the prosecution career path regime. The subsystems of that career path, according to the same Article, are: planning and admission; evaluation, tenure and promotion; training; roster and information; and remuneration. With respect, specifically, to the planning and admission subsystem, Article 94 establishes that it comprises the following phases: internal and external public notices of vacancy; public and transparent selection through invitations to prequalify and competitive exams' admittance and induction through actions needed to acquaint a new public servant with the mission,

plans, and programs of the Public Prosecution Service and with the post he or she will occupy, as well as the rules to be followed.

[102] Worth noting, too, is the fact that Article 99 provides for the establishment of a Competition Tribunal to evaluate applicants seeking to join the public prosecutors' career path and to fill vacancies in the Public Prosecution Service in accordance with Regulations. The Tribunal shall comprise attorneys with a distinguished professional background. It shall cite members on the list of candidates to conduct both personal interviews and oral and written tests of their qualifications. Based on that evaluation, they will issue an opinion, which shall be binding, except in the case of appointments of departmental prosecutors.

[103] As regards the administrative career path, Article 111 states that it encompasses all personnel performing administrative functions as employees of the Public Prosecution Service.

[104] - The Regulations governing the Public Prosecutors' Career Path in the Public Prosecution Service of Bolivia, which establish all the mechanisms and procedures that are needed and mandatory for regulating and implementing the admittance, appointment, tenure, or dismissal of Senior and Specific Subject Matter Prosecutors based on based on recognition of merit and the progressive accreditation of knowledge and legal training criteria established and described in those Regulations. Title II addresses the planning and admission subsystem and establishes specific provisions regarding notices of vacancy, invitations to prequalify, competitive exams, and written and oral tests, as well as in-person interviews.

b) Observations

[105] In first place, the Committee would like to recognize the new regulatory measures adopted by the Plurinational State of Bolivia to continue to push forward with the creation, maintenance, and strengthening of its systems of government hiring as referred to in Article III (5) of the Convention, led by the provisions contained in the new Constitution.

[106] Having said that, it believes it useful to formulate a number of comments regarding the advisability of strengthening, developing, and/or adapting certain provisions that have to do with those new developments, notwithstanding the observations made by the Committee in Section 1.1.1. above in connection with the follow-up on implementation of the recommendations made to the State under review in the report from the Second Round.

- As regards the majority of public servants, the Committee considers the following:

[107] As noted above, the Plurinational State of Bolivia is currently in the process of adapting its existing overall government hiring system to the new principles and provisions laid out in the Constitution of 2009, which, as was noted during the on-site visit, requires the drafting, approval, and enactment of a raft of laws including a new Civil Servant Law (*Ley de la Servidora y Servidor Público*).

[108] However, as was explained on that occasion, the processes of evaluation, analysis, and *socialization* of the Civil Servant bill has taken longer than anticipated, for which reason, the MTEPS, through its DGSC, has taken it upon itself to update the Regulations on the Procedures for Admission into the Administrative Career Service, on Supervision, and on Authorization and Certification of Private Entities Specialized in the Selection of Personnel for the Public Sector mentioned in the

preceding section, in order to adapt the current hiring system while the necessary changes to the overall system in accordance with the Constitution of 2009 are finalized.

[109] These changes, as mentioned in the previous section, were only implemented in October 2014. Therefore, in the meantime, according to information collected during the on-site visit, multiple engagements to the civil service have been and are being made by means of the mechanism envisaged in Article 5(e) “Interim Personnel” of the Statute on Public Officials (EFP),^{78/} bearing in mind, among other provisions, the guidelines contained in the circular issued by the MTEPS on April 11, 2011,^{79/} concerning interim appointments.

[110] Accordingly, in addition to reiterating the observations and comments that it made in the preceding section regarding the importance that the country under review consider adjusting and/or developing, as soon as possible and where applicable, its civil servant hiring systems in keeping with the principles envisaged in the new Constitution, the Committee will make a recommendation to the effect of avoiding the improper use and the continuation in public service of persons engaged by means of the interim appointments mechanism, which may be done without complying with the procedures envisaged for recruitment based on merit. (See Recommendation 1.1.3.13 in Section 1.1.3 of Chapter II of this report.)

- As regards the Judiciary, the Committee observes as follows:

[111] The Plurinational State of Bolivia has a new regime governing the hiring of civil servants in the judicial branch, as reflected in the new Constitution and Law No. 025.

[112] *For the first time, a State such as Bolivia has established in its Constitution that admission of the highest judicial authorities, that is to say, the judges of the Supreme Court of Justice, the Plurinational Constitutional Court, the Agricultural/Environmental Court, and the Judicial Council, will all be elected by universal suffrage, which means that the Plurinational State of Bolivia is transforming access to the Judiciary and Administration of Justice, based on the procedural principles of cost-free service, openness, transparency, oral hearings, expeditiousness, probity, honesty, legality, effectiveness, efficiency, accessibility, immediacy, material truth, due process, and equality of the parties before the judge, all of which is set forth in and regulated by Articles 180 to 204, in Chapter II, Ordinary Jurisdiction, of the Political Constitution of the State.*^{80/}

[113] As was noted above, Law No. 025 sets out the procedures for these elections, which were held for the first time in October 2011. However, from the information that it had at its disposal, the Committee was unable to discern the existence of rules on the ALP’s constitutionally assigned task of preselection of candidates for judgeships on the TSJ, TCP, and Agricultural/Environmental Court, or for proposing candidates to the Judicial Council.

[114] Accordingly, the Committee believes that, in order to safeguard the principle of equal treatment of all aspirants and assist the ALP in its task of nominating and proposing the best candidates for the aforementioned posts, it would be useful for the country under review to consider the possibility of

78. Interim personnel: These are defined as persons who, provisionally and for a maximum non-renewable term of 90 days, perform government jobs meant for the administrative career service, when they cannot be performed by career staff in accordance with this Statute and regulatory provisions. [EFP, Article 5(e)]

79. Available at: <http://www.mintrabajo.gob.bo/Descargas/DGSC/11-Interinatos.pdf>

80. See the National Progress Report presented by the Plurinational State of Bolivia at the 21st meeting of the Committee (March 2013) in accordance with Article 31 of the Committee’s Rules of Procedure, p. 24, available (in Spanish only) at: http://www.oas.org/juridico/PDFs/XXI_blv.pdf

establishing rules and/or requirements that objectively and appropriately appraise the technical and professional credentials of candidates, taking into account their experience and the requisite abilities for the judgeship in question through the use of aptitude and knowledge examinations, background analyses, and evaluation of their professional experience and academic qualifications. (See Recommendation 1.1.3.14 in Section 1.1.3 of Chapter II of this report.)

[115] In second place, although Article 215 of Law No. 025 establishes the new career path in the judiciary, it only covers judges in the regular and agricultural/environmental jurisdictions, leaving aside *vocales* (non-judge members) and judicial support staff, who used to be included, if under another denomination, in the judicial career path set forth in Article 23 of Law No. 1817 (Judicial Council Law),^{81/} which the Committee analyzed in the Second Round.

[116] The Committee was struck by the above since only judges enjoy the continuity and tenure that the current judicial career path guarantees, but not the other officials who serve that branch of government. For example, according to Judicial Council Decision No. 70/2014, which approved the regulations on *vocales* and vacancy announcement 03/2014, the engagement of *vocales* only lasts four years.^{82/}

[117] In light of the foregoing, and in a bid to promote the principles of job stability, continuity, tenure and security in the judicial branch, the Committee will make a recommendation to the country under review that it consider adopting the measures it considers necessary to enable *vocales*, judicial civil servants, and other judicial support staff to join the new judicial career path envisaged by Law No. 025. (See Recommendation 1.1.3.15 in Section 1.1.3 of Chapter II of this report.)

[118] At the same time, during their presentation in the course of the on-site visit, the representatives of the Judicial Council said that the regulations on the administrative career path in the judicial branch are at the final review stage, and therefore, the engagement of administrative officials is provisional, pending compliance with the profile established for the position. The Committee will formulate a recommendation in that regard. (See Recommendation 1.1.3.16 in Section 1.1.3 of Chapter II of this report.)

[119] By the same token, on that same occasion representatives of the DAF mentioned that the implementation of Law No. 025 led to a structural transformation in the justice administration, with judicial and administrative bodies being accorded specific powers; however, in the administrative sphere those powers are not adequately defined and there are imprecisions and contradictions that have generated a number of internal conflicts with the Judicial Council.

[120] Based on the information presented,^{83/} according to Article 230(4) of Law No. 025, among other things the DAF has the power to appoint its staff on the basis of merit and competence; however, that power, they said, is limited, as it does not cover all administrative staff in the judicial branch, a less than an ideal situation, particularly since the standards in place authorize the Judicial Council to hire administrative personnel. In that regard, the DAF mentioned that it relies on its Specific Regulations of the SAP, the Internal Staff Rules, Rules on the Organization of Functions, a

81. Available at:
http://www.stf.jus.br/arquivo/cms/forumCorteSupremaConteudoTextual/anexo/Bolivia_LeydelConsejodelaJudicatura.pdf

82. See the presentation by the Judicial Council during the on-site visit, supra note 59.

83. See the presentation by the DAF during the on-site visit, available at:
http://www.oas.org/juridico/spanish/mesicic5_blv.htm

Functions Manual, and a Positions Manual, which documents permit the initiation of a hiring process. However, as the DAF representatives explained in their presentation, those rules are in the process of being updated and adapted in line with the recent restructuring of the DAF.

[121] Bearing that in mind, the Committee will make a recommendation to the country under review to take the necessary steps to define the boundaries of the powers and authority of the Judicial Council and the DAF, particularly with regards to hiring administrative civil servants in the judicial branch, and establish interagency coordination mechanisms between the two entities so that they may harmonize their functions, exchange information, expedite hiring processes and obtain assistance in discharging their responsibilities. (See Recommendations 1.1.3.17 and 1.1.3.18 in Section 1.1.3 of Chapter II of this report.)

- As regards the Public Prosecution Service, the Committee considers as follows:

[122] As in the Judiciary, Bolivia has a developed system for hiring public servants in the Public Ministry. The system is contained mainly in the new LOMP and the Regulations on governing the Public Prosecutors' Career Path in the Public Prosecution Service, also cited in the previous section.

[123] However, the Committee notes an insufficiency of provisions establishing the administrative career path in the Public Prosecution Service, which, according to Article 111 of the LOMP covers all personnel who perform such duties in that area of government.

[124] In that regard, representatives of the Public Prosecution Service mentioned that although all the regulations required by the LOMP had been drafted, the rules governing the above career path had been delayed pending the adjustment or development of the new regime governing the hiring of civil servants in line with the Constitution in force, in contrast to the provisions governing the expert witness career path, which, they said, were at a more advanced stage. The Committee will make a recommendation in that regard. (See Recommendation 1.1.3.19 in Section 1.1.3 of Chapter II of this report.)

1.1.2.2. New developments with respect to technology

[125] Regarding developments of this type, the Committee notes the computer systems project of the DGSC to systematize the RUESS, in addition to the smartphone application designed by the Judicial Council to announce vacancies in the judicial branch, both of which are described in section 1.1.1 above.

1.1.2.3. Results

[126] In its response to the questionnaire,^{84/} the country under review did not provide information on objective results obtained with the systems of government hiring referred to in Article III(5) of the Convention. However, based on the information gathered during the on-site visit as well as that which it had at its disposal, the Committee believes it appropriate to offer the following considerations:

84. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 119, supra note 11.

- As regards the majority of public servants:

[127] The Committee reiterates its observations concerning the importance that the country under review adjust the regime governing the hiring of civil servants to the principles and rights enshrined in the new Constitution and, therefore, will recommend, notwithstanding the imminent adoption of the new regime, that the country under review consider adopting the necessary measures to strengthen the manner in which the DGNP—as the governing body of the SAP—and the DGSC prepare and keep statistics on, *inter alia*, the number of civil service employment opportunities announced, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in public-sector entities under service provision regimes, such as administrative contracts for advisory or consulting services. (See Recommendation 1.1.3.20 in Section 1.1.3 of Chapter II of this report.)

- As regards the legislative branch:

[128] The Committee reiterates its observations concerning the importance that the country under review consider adapting and/or developing laws or other instruments to strengthen the system of government hiring in the legislative branch through the establishment of a consolidated or special administrative career path that takes into account their particular organization and specific competencies and, therefore, will recommend, notwithstanding the possible adoption of that regime, that the country under review consider adopting the necessary measures to strengthen the manner in which the legislative branch prepares and keeps statistics on, *inter alia*, the number of employment opportunities announced in the legislative branch, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in public-sector entities under service provision regimes, such as administrative contracts for advisory or consulting services. (See Recommendation 1.1.3.21 in Section 1.1.3 of Chapter II of this report.)

- As regards the judiciary:

[129] Both in the information presented during the on-site visit and in its *Rendición de Cuentas del Primer Semestre de 2015* [Accountability Report for the First Semester of 2015],^{85/} the Judicial Council mentioned that “*one of the main challenges posed by the Judicial Council for 2015 is the institutional consolidation of positions in the judiciary in keeping with the requirements contained in Law 025. However, that objective has been undermined by the petty private interests of a number of judges and other members of the court, who, through actions for constitutional relief and other remedies, have held up public employment opportunity processes, interrupting and impeding the urgently yearned-for reform of Bolivian justice that the public demands in order to renew it with the best legal professionals consisting of honest and independent men of women. Such actions have prevented the Judicial Council from fully exercising its powers to regulate and manage the selection of judges and other court members through contests of merits and examinations of competence, as envisaged in Law No. 025, in order to equip the judiciary with qualified human resources.*”^{86/}

85. See the presentation by the Judicial Council during the on-site visit, *supra* note 59.

86. *Rendición de Cuentas del Primer Semestre de 2015 del Consejo de la Magistratura*, p. 61, available at:

[130] Since the adoption of the regulations governing the judicial career path in January 2015, the actions taken by the Judicial Council to apply the new standards on public vacancy announcements have been as follows:

Public Vacancy Announcements (Law No. 025)
Judicial Officials

No.	Decision No.	Vacancy Announcement No.	Results
1.	Decision No. 70/2014 approving the Regulations on <i>Vocales</i> * *Non-judge members of courts	Vacancy announcement 03/2014 for <i>vocales</i> of departmental tribunals of justice. Servants engaged for limited periods (4 years)	1. Vacancy announcement halted by an action for constitutional relief. By judgment SCP-0504/2015 on June 1, 2015, the TCP ruled that the Judicial Council did not violate any rights. It denied the relief sought by a number of <i>vocales</i> and ruled that vacancy announcement 03/2014 was valid. 2. In accordance with the SCP, the Judicial Council reactivated vacancy announcement 03/2015, which was again blocked by a so-called petition for compliance.
2.	Decision No. 286-A/2014 approving the Regulations Governing the Judicial Career Path	Vacancy announcement 01/2015 for Family Court Judges (With access to the judicial career path)	Vacancy announcement halted by an action for constitutional relief, which is currently under review by the TCP
3.	Decision No. 31/2015 approving the Regulations on Preselection, Selection, and Appointment of Judicial Conciliators	Vacancy announcement 03/2015 for conciliators	Institutionalization process concluded and invalidated by Law No. 719
4.	Decision No. 280/2014 approving the Regulations on Admission, Evaluation, and Training for Judicial Support Staff of the Judiciary	Public Vacancy Announcement No. 09/2014	Selection process executed (Personnel engaged for limited periods with the right to performance evaluations)
5.	Decision approving the Regulations on Court Social Workers and Psychologists	Vacancy Announcement 01/2015	Selection process executed (Personnel engaged for limited periods with the right to performance evaluations)

Public Vacancy Announcements (Law No. 025)
Administrative Officials

No.	Decision No.	Vacancy Announcement No.	Results
1.	Decisions Nos. 013, 014 and 015 approving the regulations governing disciplinary judges, their secretaries and assistants	Vacancy announcement 03/2012 for Disciplinary Judges	Selection process executed (Personnel engaged for limited periods with the right to performance evaluations) The judicial branch has 21 disciplinary judges at present.
2.	Approval of a public announcement of a contest of merits and examination of competence by the Administrative/Financial Director of the Judiciary.	Vacancy announcement 04/2014 for disciplinary judges' secretaries	Selection process concluded
3.	Approval of a public announcement of a contest of merits and examination of competence by the DD.RR. Personnel	Vacancy Announcement 04/2014	Selection process concluded

[131] Based on the above information, the Committee finds that the Judicial Council has been moving forward with selection processes for judicial and administrative officials in accordance with the provisions of the new regime governing the judicial career path. However, the committee is concerned by the fact that some of those vacancy announcement have been blocked by actions for constitutional relief, on some of which a ruling is pending. If that situation persists it could adversely affect the transition to the new constitutional and legal regime governing the judicial branch and the selection of new officials whose status is currently temporary in accordance with Laws Nos. 003 of February 2010, 040 of September 2010, and 212 of December 2011. Accordingly, the Committee will formulate a recommendation. (See Recommendation 1.1.3.22 in Section 1.1.3 of Chapter II of this report.)

[132] In addition to the foregoing, the Committee also considers it appropriate to recommend that the necessary measures be adopted to strengthen the manner in which both the Judicial Council and the DAF prepare and keep statistics on, *inter alia*, the number of judicial career employment opportunities announced, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in the judiciary under service provision regimes, such as administrative contracts for advisory or consulting services. (See Recommendation 1.1.3.23 in Section 1.1.3 of Chapter II of this report.)

- As regards the Public Prosecution Service:

[133] In its response to the questionnaire,^{87/} the country under review said: “*Since 2013 the Public Prosecution Service has issued six national public calls for candidates in order to establish a database of professionals and technicians, so as to be able objectively to select personnel to fill prosecutorial, prosecutorial support, forensic expert, forensic medical, administrative and other positions that it needs to staff. Furthermore, this year, 2015, it issued its first internal vacancy announcement for the prosecutorial career path, in which, following a transparent and lawful selection process, 60 officials will be chosen as prosecutors and prosecutor’s assistants who will take part in the first induction course of the State School for Prosecutors, with a view to having institutionalized prosecutors, as envisaged in Law 260 (Organic Law of the Public Prosecution Service).*”

[134] In that regard, during the on-site visits, representatives of the Public prosecution service presented the results of the above six vacancy announcements and said that as of October 2015 they had a database comprising 3,818 registered persons and 1,767 applications pending.

[135] In keeping with articles 27 and 30 of the LOMP as well as that law’s second transitory provision, the following table provided during the on-site visit details the number of persons appointed in the system established by the Public Prosecution Service.

Appointments between July 2013 and August 2015

Department	Total Personnel	Number of Appointments
Office of the Departmental Prosecutor of Chuquisaca	242	113
Office of the Departmental Prosecutor of Tarija	77	49
Office of the Departmental Prosecutor of Oruro	60	36
Office of the Departmental Prosecutor of Potosí	80	35
Office of the Departmental Prosecutor of Beni	66	41
Office of the Departmental Prosecutor of Pando	39	22
Office of the Departmental Prosecutor of Cochabamba	179	59
Office of the Departmental Prosecutor of Santa Cruz	230	101
Office of the Departmental Prosecutor of La Paz	255	124
National total	1,228	580

[136] Based on the above information, the Committee notes that with the first internal announcement of vacancies for the prosecutorial path, the Public Prosecution Service has begun to implement the new regime provided for in the LOMP and its implementing regulations, for which it received 237 applicants nationwide, with 169 progressing to phase B (knowledge, ability, and skills test followed by an interview, for admission to the induction program).

[137] The Committee also notes the creation, by direct invitation, of the database containing 5,585 individuals to fill vacant positions in an interim capacity until superior or specialized prosecutors are appointed and incorporated into the prosecutorial career path or institutionalized prosecutorial support staff are engaged, in accordance with the LOMP.

87. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 71, supra note 11.

[138] In that connection, the Committee reiterates for the Public Prosecution Service the same considerations that it made in relation to the judiciary as regards to speeding up the transition, in this case, to the new regime governing the prosecutorial career path set out in the laws cited above, bearing in mind that, according to information that the Committee received during the on-site visit, the prosecutorial personnel currently working in the Public Prosecution Service are serving in a provisional capacity. (See Recommendation 1.1.3.24 in Section 1.1.3 of Chapter II of this report.)

[139] Finally, the Committee also considers it appropriate to recommend that the necessary measures be adopted to strengthen the manner in which the Public Prosecution Service prepares and keeps statistics on, *inter alia*, the number of prosecutorial career employment opportunities announced, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in the Public Prosecution Service under service provision regimes, such as administrative contracts for advisory or consulting services. (See Recommendation 1.1.3.25 in Section 1.1.3 of Chapter II of this report.)

1.1.3. Recommendations

[140] In light of the comments made in Sections 1.1.1 and 1.1.2 of Chapter II of this report, the Committee suggests that the country under review consider the following recommendations:

- 1.1.3.1. Consider adjusting and/or developing, as soon as possible and where applicable, laws or other instruments that regulate the systems of government hiring, based on the principles and rights in the Constitution of 2009, chiefly those contained in Articles 232 to 240 thereof. (See paragraph 20 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.2. Adopt, through the corresponding procedures, the norms and mechanisms governing the modality of recruitment by direct invitation of discretionarily appointed public servants based on the principles of merit, competence, equality, and transparency, ensuring openness, equity, and efficiency in hiring. (See paragraph 25 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.3. Prepare disaggregated statistics on the number and percentage of civil servants hired through merit-based selection processes; under temporary or provisional appointment arrangements; in discretionarily appointed positions; temporary personnel and individuals providing on-line consultant services at all levels of government (central, departmental, municipal, decentralized rural, indigenous, and native), with a view to identifying challenges and, where appropriate, recommending corrective measures. (See paragraph 35 in section 1.1.1 in Chapter II of this report.)

- 1.1.3.4. Continue adopting, through the corresponding procedures, the norms and mechanisms governing the hiring of temporary personnel individuals providing on-line consultant services, guaranteeing observance of the principles of merit, competition, equality, and transparency, ensuring openness, equity, and efficiency in hiring. (See paragraph 35 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.5. Adopt any measures needed to avoid inappropriate use of individuals providing on-line consultant services aimed at employing persons who based on their characteristics and the functions they perform should be employed as in-house staff and selected according to procedures that apply to them. (See paragraph 35 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.6. Take the necessary measures designed to assimilate, as appropriate, temporary personnel and individuals providing on-line consultant services into staff positions, based on the principles and rights upheld in the 2009 Constitution. (See paragraph 35 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.7. Promote, in keeping with the NB-SAP, the updating of the Specific Regulation of the System of Personnel Management in the public sector entities indicated in the SAFCO Law and in the EFP and, at the same time, grant the MEFP, as the lead agency of the system, the monitoring powers needed to verify adequate fulfillment of this obligation. (See paragraph 37 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.8. See to it that the corresponding authority adopts specific provisions aimed at preventing and punishing nepotism in public service in accordance with the current constitutional regime. (See paragraph 42 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.9. Subject to the availability of resources, endow the DGNGP, as the governing body of the SAP, and DGSC, with the human, material, and financial resources they need to properly perform their functions with respect to the systems of government hiring. (See paragraph 47 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.10. Establish inter-agency coordination mechanisms between the DGNGP, as the governing body of the SAP, and the DGSC, designed to harmonize their functions and powers with regard to the SAP. (See paragraph 47 in section 1.1.1 in Chapter II of this report.)

- 1.1.3.11. Consider adjusting and/or developing, as soon as possible and where applicable, laws or other instruments to strengthen the system for hiring civil servants in the Judiciary, by establishing a single or special administrative career path that caters to its particular organizational structure and specific spheres of competence and guarantees merit-based, transparent, and impartial selection processes that abide by the principles set forth in the Constitution and in the Convention. (See paragraph 61 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.12. Adopt the measures needed for the prompt implementation and start-up of the RUESS, including those needed to administer, maintain, and update it on an ongoing basis. (See paragraph 76 in section 1.1.1 in Chapter II of this report.)
- 1.1.3.13. Adopt the necessary measures to avoid both the inappropriate use and the prolonged continuation in the civil service of individuals engaged as “*interim personnel*,” which is done without abiding by recruitment procedures based on merit, competence, equality, and transparency. (See paragraph 110 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.14. Establish rules and/or requirements that objectively and appropriately appraise the technical and professional credentials of individual applying as judges of the TSJ, TCP, and Agricultural/Environmental Tribunal and as members of the Judicial Council, taking into account their experience and the requisite abilities for the judgeship in question through the use of aptitude and knowledge examinations, background analyses, and evaluation of their professional experience and academic qualifications. (See paragraph 114 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.15. Take the necessary steps to enable *vocales* (non-judge members of courts), judicial servants, and other judicial support staff to access the judicial career in keeping with Article 215 of Law No. 025. (See paragraph 117 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.16. Consider adopting as soon as possible the Regulations Governing the Administrative Career Path of the Judiciary based on the principles of merit, competence, equality, and transparency, ensuring openness, equity, and efficiency in hiring. (See paragraph 118 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.17. Consider adjusting and/or developing, as soon as possible and where appropriate, provisions clearly defining the boundaries of the powers and authority of the Judicial Council and the DAF, particularly with regards to hiring administrative civil servants in the judicial branch. (See paragraph 121 in section 1.1.2.1 (b) in Chapter II of this report.)

- 1.1.3.18. Establish interagency coordination mechanisms between the Judicial Council and the DAF, so that they may harmonize their functions, exchange information, expedite the procedures for hiring administrative civil servants in the Judiciary, and obtain assistance in discharging their responsibilities. (See paragraph 121 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.19. Adopt, through the corresponding procedures, the norms and mechanisms governing the administrative career path in the public prosecution service envisaged in article 111 of the LOMP, based on the principles of merit, competence, equality, and transparency, ensuring openness, equity, and efficiency in hiring. (See paragraph 124 in section 1.1.2.1 (b) in Chapter II of this report.)
- 1.1.3.20. Adopt the necessary measures to strengthen the manner in which the DGNP, as the governing body of the SAP, and the DGSC prepare and keep statistics on, *inter alia*, the number of civil service employment opportunities announced, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in public sector entities under service provision regimes, such as administrative contracts for advisory or consulting services, in order to identify challenges and, as appropriate, recommend corrective measures. (See paragraph 127 in section 1.1.2.3 in Chapter II of this report.)
- 1.1.3.21. Adopt the necessary measures to strengthen the manner in which the legislature prepares and keeps statistics on, *inter alia*, the number of civil servant employment opportunities announced in the legislature, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in public sector entities under service provision regimes, such as administrative contracts for advisory or consulting services, in order to identify challenges and, as appropriate, recommend corrective measures. (See paragraph 128 in section 1.1.2.3 in Chapter II of this report.)
- 1.1.3.22. Adopt the necessary measures aimed at expediting and providing effectiveness to the selection, by means of contests of merits and examinations of competence, of officials in the judiciary who are serving in a transitory capacity under Law No. 003 of February 13, 2010, Law No. 040 of September 1, 2010, and Law No. 212 of December 23, 2011. (See paragraph 131 in section 1.1.2.3 in Chapter II of this report.)

- 1.1.3.23. Adopt the necessary measures to strengthen the manner in which both the Judicial Council and the DAF prepare and keep statistics on, *inter alia*, the number of civil servant employment opportunities announced in the judiciary, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in the judiciary under service provision regimes, such as administrative contracts for advisory or consulting services, in order to identify challenges and, as appropriate, recommend corrective measures. (See paragraph 132 in section 1.1.2.3 in Chapter II of this report.)
- 1.1.3.24. Adopt the necessary measures to expedite the processes for the transition to the new regime governing the prosecutorial career path established in the LOMP. (See paragraph 138 in section 1.1.2.3 in Chapter II of this report.)
- 1.1.3.25. Adopt the necessary measures to strengthen the manner in which the Public Prosecution Service prepares and keeps statistics on, *inter alia*, the number of prosecutorial career employment opportunities announced, the number and percentage of civil servants engaged by means of merit-based selection processes, the number and percentage of civil servants employed in career positions under temporary or provisional appointments, the number and percentage of civil servants employed in positions subject to discretionary appointment, and the number and percentage of persons employed in the Public Prosecution Service under service provision regimes, such as administrative contracts for advisory or consulting services, in order to identify challenges and, as appropriate, recommend corrective measures. (See paragraph 139 in section 1.1.2.3 in Chapter II of this report.)

1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES

1.2.1. Follow-up on implementation of the recommendations formulated in the Second Round

Recommendation 1.2.1:

Strengthen the systems for government procurement of goods and services.

[141] In its response to the questionnaire and during the on-site visit,^{88/} the country under review presented information with respect to the above measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

88. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 62-68, *supra* note 11.

[142] The promulgation of Supreme Decree (DS) No. 0181 which,^{89/} as was mentioned in Section 1.1.1 above, repealed SD No. 29190 of 2007, as the latter had done to SD No. 27328 of 2004, whose provisions were examined by the Committee in the Second Round and which was the subject of the great majority of the recommendations and measures regarding government procurement systems in the Plurinational State of Bolivia that were put forward in that round.

[143] Like the two supreme decrees that preceded it, SD No. 0181 was drawn up and promulgated on the basis of the provisions contained in the SAFCO Law of 1990, which, as was also mentioned in Section 1.1.1. above, predated the 2009 Constitution, which was why during the on-site visit the country under review described the advances made on the preliminary draft of the Plurinational Public Administration Law, which will purportedly replace the still-in-force SAFCO Law and would include, *inter alia*, a new regime on government procurement based on the new legal and institutional structure of the country under review following the entry into force of the 2009 Constitution.

[144] It is for that reason that, while it takes note of the steps taken by the country under review to move forward with implementing the above recommendation, the Committee deems it appropriate to reformulate that measure and to urge the country under review to consider adjusting and/or developing, as soon as possible and where applicable, laws or other instruments to ensure the transparency, fairness, and efficiency of systems for government procurement of goods and services, based on the principles upheld in the Constitution of 2009. (See Recommendation 1.2.3.1 in Section 1.2.3 of Chapter II of this report.)

[145] Germane to the foregoing are the observations on this subject presented by representatives of civil society and private sector organizations, professional associations, and academics invited to participate in the on-site visit, concerning the importance of adapting the regime on government procurement to the new Constitution as soon as possible, bearing in mind that the reality of the country today is different to that of 25 years ago when the SAFCO law was enacted, which, they say, denotes a clear mismatch between reality and the laws in force. They also said that while some progress has been made with the introduction of legal provisions in this area, Bolivia urgently needs specific legislation on government procurement that is in line with the new plurinational legal and institutional framework.

Measure (a) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

See to it that the corresponding authority develops the grounds for exceptions to the public bidding requirement provided for at Article 33 of the consolidated text of Supreme Decree N°. 27328 and Article 71 of the Regulation (Ministerial Resolution N°. 760) for the purpose of impeding its improper and/or discretionary use.

[146] In its response to the questionnaire and during the on-site visit,^{90/} the country under review presented information on the above measure. In this regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered: the establishment in article 68 of SD No. 0181 of 19 specific grounds for invoking the exception to the public procurement requirement, including the one contained in paragraph (f) of that provision concerning the exception with regard to “procurement of works of art,” which the Committee found striking.

89. See note 28, above.

90. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 74 and 75, supra note 11.

[147] As regards the purpose of impeding improper and/or arbitrary use, as the above measure recommends, Article 13 of SD No. 0181 provides that the chief executive officer (CEO) of the contracting public entity is responsible for authorizing this method of procurement by issuing an express resolution that sets out the technical and legal justifications, and that, to that end, procedures must be followed to ensure that this type of procurement is done taking immediate, expeditious, and timely measures, as Article 66 prescribes. In addition, once the contract has been signed, the contracting public entity is required to present the relevant information on the procurement to the Office of the Comptroller General of the State and to register it as an exceptional procurement in the SICOES if the cost is greater than Bs. 20,000 (twenty thousand bolivianos).^{91/}

[148] In view of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of measure (a) of recommendation 1.2.1.

[149] However, with regard to this method of procurement, during the on-site visit, the representative of the DGNGP pointed out that express resolutions issued by the CEO authorizing an exceptional procurement are not subject to appeal in accordance with Article 90 (III) of SD No. 0181,^{92/} which means that they are only subject to the *ex-post* control done at random by the CGE in the course of its official functions.

[150] For their part, the representatives of the Office of the Procurator General [*Procuraduría General del Estado*] (PGE) noted on that same occasion that although they were not directly involved in the oversight and monitoring of the performance of contracts concluded under SD No. 0181,^{93/} the PGE submits opinions on their lawfulness at the request of any public entity. In that regard, it added that in the context of its constitutional and legally assigned duties, it issued General Opinion 02/2015,^{94/} which instructs all legal units of the of the public administration to see to it that in procurement processes and the execution thereof,^{95/} including exceptional ones: it is verified that the contractor can materially meet its contractual obligations; the necessary clauses are introduced to ensure the performance of the contract; the contract's performance is monitored in terms of compliance with time frames and conditions; the necessary steps are taken, in the event of the discovery of irregularities or illicit acts, to recommend, on the basis of a reasoned report, if applicable, that the CEO rescind the contract and duly execute the performance bonds; and in the even of a criminal complaint, the action is pursued to its conclusion and that they participate in a timely and pertinent manner in accordance to law.

[151] Notwithstanding the satisfactory consideration by the country under review of the measure suggested in the Second Round on the development of grounds for exceptions to the public bidding requirement, bearing in mind the mandatory justification requirement for the express decisions of the CEO authorizing exceptional procurement, and the instructions issued by the PGE that the legal units of the public administration verify the lawfulness of such procurement processes, the committee notes that, overall, the current oversight mechanisms for procurement contracts of this type do not offer safeguards by which to determine in a timely fashion if this method of procurement is being used improperly and/or in an arbitrary manner.

91. Exchange rate: US \$1.00 = Bs. 6.91 (November 2015).

92. See the presentation by the DGNGP during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

93. See the presentation by the PGE during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

94. Available at: <http://www.procuraduria.gob.bo/images/docs/marcolegal/dictamen002.pdf>

95. Article 37 of SD No. 0181 sets out the main functions of those units in procurement processes.

[152] Accordingly, the Committee will formulate the appropriate recommendations for the country under review to consider supplementing and/or strengthening those mechanisms, taking into account, moreover, that there is no limit on the cost of exceptional procurement contracts in the Plurinational State of Bolivia in accordance with Article 13 of SD No. 0181 and that the decisions that authorize them are not open to challenge. (See Recommendations 1.2.3.2 and 1.2.3.3 in Section 1.2.3 of Chapter II of this report.)

Measure (b) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

See to it that the corresponding authority establishes the parameters that enable public entities to set, in their specific regulations, the objective amounts for being able to proceed with the modality of direct procurement.

[153] In its response to the questionnaire and during the on-site visit,^{96/} the country under review presented the following information on measure (b) above:

[154] Section VI of Chapter IV of SD No. 0181 establishes the new regime governing direct procurement of goods and services, which, in accordance with articles 13 and 70, is permitted without any cost limit and only on the grounds expressly set out in Article 72 of SD No. 0181. Despite the use of that method being strictly subject to those grounds, based on the information at its disposal, the Committee notes that “*where direct procurement is necessary of a service that is not detailed in the aforesaid Article 72 ..., that purchase is arranged by issuing a supreme decree.*”^{97/}

[155] In light of the foregoing, the Committee reiterates the considerations and conclusions contained in the Second Round report,^{98/} which led to the formulation of the above measure concerning the importance that the country under review have a general regime that sets limits on amounts for determining the applicability of procurement operations of this type, with objective elements and specific parameters, since its absence could allow the improper use of this method of contracting, to the detriment of the entity’s –and therefore the State’s– assets.

[156] Accordingly, the Committee will reformulate the above measure in line with the legal framework in force under SD No. 0181. (See Recommendation 1.2.3.4 in Section 1.2.3 of Chapter II of this report.)

Recommendation 1.2.2 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Continue strengthening the lead agency of the SABS, especially its General Bureau of Governmental Administration Systems of the Vice-Ministry of Budget and Accounting as regards the activities for administration and control of the system, endowing it with the resources needed to adequately perform its functions.

96. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 62-68, supra note 11.

97. See the National Progress Report presented by the Plurinational State of Bolivia at the 21st meeting of the Committee (March 2013) in accordance with Article 31 of the Committee’s Rules of Procedure, p. 27, supra note 78.

98. See Report on Implementation in Bolivia of the Convention Provisions Selected for Review in the Second Round, and on Follow-Up to the Recommendations Formulated to that Country in the First Round, p. 13, supra note 3.

[157] In its response to the questionnaire and during the on-site visit,^{99/} the country under review presented information with respect to the above recommendation. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[158] Article 53 of SD No. 29894 described in section 1.1.1, according to which, one of the functions of the Vice Ministry for Budget and Government Accounting of the MEFP is to act, as the governing body on public administration standards.

[159] In that context, the DGNGP has been reorganized in order to strengthen its capacities, by “*creating the Standards Analysis and Design Unit to develop public administration standards in the context of the Constitution and the Programming and Execution Standards Unit to strengthen institutional capacities for implementing government administration standards in public entities, which structure and organization were approved by Ministry of Economy and Public Finance Resolution 42 of March 13, 2009. However, it has not yet been established as a self-sufficient agency, which would enable it to have an impartial entity with regulatory, operational, and decision-making powers for the regulation and supervision of government procurement.*”^{100/}

[160] In addition to the foregoing, in the course of its presentation during the on-site visit, the DGNGP said that there had also been no major structural changes to assist with the recommendation’s implementation.

[161] Accordingly, notwithstanding the steps taken to move forward with its implementation, the Committee will reformulate the foregoing recommendation based on the clarifications provided by the country under review in its reply to the questionnaire and the considerations aired during the on-site visit. (See Recommendation 1.2.3.5 in Section 1.2.3 of Chapter II of this report.)

Recommendation 1.2.3:

Strengthen the mechanisms of control in the processes of procuring goods, works, general services, and consulting services.

Measure (a) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Develop and implement a sanctions regime for contractors and public servants who breach or violate the principles and provisions of the consolidated text of Supreme Decree N^o. 27328 and its Regulation.

[162] With respect to the above recommendation and suggested measure, in its response to the questionnaire and during the on-site visit,^{101/} the country under review mentioned that although the sanctions regime suggested by the Committee had not been implemented, Law No. 004 (“Marcelo Quiroga Santa Cruz” Law on Combating Corruption, Illicit Enrichment, and Investigating Fortunes) promulgated in 2010, provides penalties for acts of corruption committed by public servants and former public servants in the exercise of their official duties, and by individuals, legal persons, and legal representatives of legal persons –be they public, private, domestic, or foreign– that involve or affect resources of the country.

99. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 78 and 79, supra note 11.

100. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 78 and 79, supra note 11.

101. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 62 to 68, supra note 11.

[163] In that connection, during the on-site visit, the representatives of the DGNGP said that, in view of their supplementary nature, the provisions contained in Law No. 004 could preclude the need for a new sanctions regime for public servants specifically in the area of public procurement, particularly considering the added existence of SD No. 23318-A “Regulations on Public Service Liability,”^{102/} as amended, which were also mentioned by the representatives of the DGNGP on that same occasion.

[164] Without prejudice to the foregoing, the Committee reiterates the considerations and conclusions contained in the Second Round report with respect to the ongoing insufficiency of provisions that establish specific sanctions for contractors and public officials who do not observe or who violate the provisions on government procurement in the country under review,^{103/} without prejudice to the Regime of Liability for Public Service, established at Chapter V of the SAFCO Law, the applicable provisions of the EFP, Law 004, and the Imperatives for the Ethical Conduct of Public Servants Involved in Government Procurement of Goods and Services contained in SD No. 0181.

[165] Accordingly, the Committee will reformulate the above recommendation in line with the legal framework in force. (See Recommendation 1.2.3.6 in Section 1.2.3 of Chapter II of this report.)

Measure (b) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Adopt, through the corresponding authority, provisions that provide for the selection of an entity that carries out work of intervention, control, and oversight in contracts of a certain amount or complexity that so require.

[166] With regard to the foregoing suggested measure, in its reply to the questionnaire the country under review said that no entities have been created under the current legal framework that perform in advance the functions of intervention,^{104/} control, and oversight of contracts, and it mentions the legal opinions proffered by the PGE and the *ex-post* external oversight of the CGE described at the beginning of this section as possible alternative mechanisms.

[167] Likewise, as an alternative system of *ex ante* control, the representatives of the DGNGP referred to the monitoring done in the area of procurement by the internal control units of public administration entities. However, taking into account the importance of having a body that performs the work referred to in the suggested measure in advance, those representatives said that the preliminary draft Government Contracting Law intended to replace SD No. 0181 envisages the establishment of an oversight body for public procurement.

[168] Accordingly, the Committee takes note of the steps taken by the country under review to move forward with implementing measure (b) above and reiterates its considerations and conclusions in the Second Round report with respect to this matter and urges the country under review to keep seeing to its implementation.^{105/} (See Recommendation 1.2.3.7 in Section 1.2.3 of Chapter II of this report.)

102. Available at: http://www.contraloria.gob.bo/portal/Uploads/PDFportal/20121217_314.pdf

103. See Report on Implementation in Bolivia from the Second Round, p. 13, supra note 3.

104. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 81 and 82, supra note 11.

105. See the Report on Bolivia for the Second Round, p. 8, supra note 3.

Measure (c) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Encourage the creation of citizen review mechanisms to perform oversight and monitoring of the pre-contractual phase, and of the execution of those contracts which, based on their nature, importance, and/or magnitude, so require.

[169] In its response to the questionnaire and during the on-site visit,^{106/} the country under review presented information with respect to the above measure. In that regard, the Committee notes the following as steps that contribute to progress in its implementation:

[170] The Constitution of 2009, which enshrines societal oversight by civil society organizations as a mechanism for follow-up and evaluation of public administration at all tiers of government and in autonomous, self-sufficient, and decentralized territorial entities.

[171] SD No. 0181 which in the various forms of public procurement, regardless of their purpose, provides for the exercise of societal oversight in all public acts at the pre-contractual stage of procurement. Furthermore, Article 49(e) provides for mandatory registration in the SICOES of regular progress reports on goods, works, and services contracts as an input for societal oversight.

[172] Law No. 341 (Participation and Societal Oversight Law) (hereinafter “Law No. 341”) of February 2013),^{107/} which establishes the general framework for participation and societal oversight, as well as defining its purposes, governing principles, functions, rights, obligations (and how they should be exercised), in accordance with the Constitution. The MTILC is the entity responsible for promoting and supervising that oversight. In keeping with that responsibility, during the on-site visit representatives of the MTILC presented an initiative known as *Mi Plataforma* (My Platform) that it is currently implementing and to which the Committee refers in Section 1.2.2.2 of this report.

[173] In light of the foregoing, the Committee takes note of the steps taken by the country under review to advance implementation of measure (c) above, particularly as reflected in the concept of societal oversight enshrined in the Constitution, governed by Law No. 341, and expressly recognized at the pre-contractual stage of the various public procurement methods envisaged in SD No. 0181. However, it does not identify in the above instruments any provisions that advance and/or promote mechanisms for societal oversight and participation in contract implementation.

[174] In light of the foregoing, the Committee will reformulate the measure. (See Recommendation 1.2.3.8 in Section 1.2.3 of Chapter II of this report.)

[175] Germane to the foregoing are the observations on this subject presented by representatives of civil society and private sector organizations, professional associations, and academics invited to participate in the on-site visit, concerning the absence of mechanisms for effective citizen follow-up of the performance of government contracts as well as the need for greater promotion and dissemination of the scope of Law No. 341 and training for the proper exercise of its provisions.

106. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

107. Available at: http://www.transparencia.gob.bo/data/botoneria_derecha/bt_20131009_04.pdf

Recommendation 1.2.4 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Implement, through the corresponding entities of the leading agency of the SABS, the Public Registry of Suppliers provided for at Article 4 of the consolidated text of Supreme Decree No. 27328, it being possible to use computer technology to set it up, update it, and consult it.

[176] In its response to the questionnaire and during the on-site visit,^{108/} the country under review presented information on the above measure. In that regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[177] SD No. 1497 of February 2013,^{109/} which created the Consolidated Register of Government Suppliers (RUPE) as the exclusive official register of providers to the Plurinational State of Bolivia that are eligible to engage in government contracts with a cost of more than Bs. 20,000, irrespective of the origin of the resources,^{110/} the use of which is mandatory for all public-sector entities.

[178] The Regulations of the RUPE,^{111/} adopted by Ministry Resolution No. 274 of May 2013, which, *inter alia*, sets out the object, purpose, scope of application, and information contained in that register.

[179] At present, according to updated information supplied during the on-site visit, there are more than 82,263 providers listed in the RUPE, with an average of 209 providers registering daily.

[180] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of Recommendation 1.2.4 above.

Recommendation 1.2.5:

Continue strengthening the electronic media and information systems for government procurement.

Measure (a) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Adopt the special regulation for electronic procurement provided for at Article 34 of the consolidated text of Supreme Decree No. 27328, centralizing as far as possible the public dissemination of government procurement and observing the principles of openness, equity, and efficiency provided for in the Convention and facilitating the best conditions for the commercial operations of the State.

[181] In its response to the questionnaire and during the on-site visit,^{112/} the country under review presented information with respect to the above measure. In that regard, the Committee notes the following as steps that contribute to progress in its implementation:

108. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 84-89, supra note 11.

109. Available at: <https://www.sicoes.gob.bo/normativa/docs/DS1497.pdf>

110. The RUPE is available at the SICOES under the option "Providers Guide" in the RUPE menu, which is searchable and provides general information on registered providers.

111. Available at: <https://www.sicoes.gob.bo/normativa/docs/DS1497.pdf>

112. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

[182] SD No. 29190 of 2007, mentioned above, which recognizes the SICOES as the only official channel for announcing government tenders; until then they had to be published in the official gazette for tenders (*Gaceta Oficial de Convocatorias*) and/or a nationally distributed newspaper. Furthermore, following the entry into force of the SD No. 0181, the SICOES also became the official channel for announcing tender awards and other decisions, with the calculation of time frames becoming based on the publication date of those documents in the system.

[183] According to the reply of the country under review to the questionnaire, “*it is important to note that the information published in the SICOES is official and that public-sector entities have the obligation to upload to the system all the necessary documents to enable potential bidders to participate and civil society to monitor the procurement processes of public-sector entities.*” The State’s reply also described how the publication of tenders in the SICOES has evolved between 2002 and the present, with a significant increase in the transparency of procurement noted since 2007 and more than 93,000 procurement processes published in 2014.^{113/}

[184] In addition, according to information provided by the DGNGP during the on-site visit, a number of adjustments were made to the SICOES for the purposes of implementing SD No. 0181, notable among which was the introduction of the Goods and Services Catalogue, which uses the United Nations Standard Products and Services Code (UNSPSC). According to the DGNGP, the Providers Register for the *Bolivia Cambia* Program developed in 2012 was absorbed by the RUPE in 2013. It also said that the country is implementing the “*Government Management System (SIGEP) with a view to integrating financial and administrative systems, such as the Integrated Management and Administrative Modernization System (SIGMA), the Integrated Accounting System (the current SIGEP Móvil), the Fixed Assets Information System (SIAF), the Government Accounts Administration System (Mercurio), the Document Presentation Control System (Alexis), the Subnational Debt Administration and Information System (SAIDS), and the new version of SICOES, featuring a newly implemented electronic procurement functionality.*”^{114/}

[185] It is worth mentioning that in its response to the questionnaire the country under review noted as a difficulty encountered in implementing the above measure that “*initially, the measures to do with publication in SICOES and the calculation of time frames on that basis met with a degree of resistance on the part of public sector entities; however, 100% of information published on SICOES is now done online, in contrast to the situation recorded in 2005, when 71% of the information was submitted in paper form by public entities, and then had to be transcribed by operators at the Ministry of the Economy before being posted on SICOES.*”^{115/}

[186] In that regard, the Committee takes note of the steps taken by the country under review to move forward with the implementation of the above measure, particularly the development of SICOES to centralize public dissemination of government procurement, observing the principles of openness, equity, and efficiency provided for in the Convention and facilitating the best conditions for the commercial operations of the country, as the measure suggests. Accordingly, the Committee believes it appropriate to reformulate the measure and urges the country under review to continue to move forward with the creation and implementation of computer systems that allow electronic procurement of goods and services. (See Recommendation 1.2.3.9 in Section 1.2.3 of Chapter II of this report.)

113. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 89, supra note 11.

114. See presentation by the DGNGP during the on-site visit, supra note 90.

115. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 91, supra note 11.

Measure (b) suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Continue developing and strengthening the SICOES, especially its website www.sicoes.gov.bo, for the purpose of ensuring transparency, openness, equity, and efficiency in the government systems for procurement of goods and services provided for in the Convention.

[187] In its response to the questionnaire and during the on-site visit,^{116/} the country under review presented information on the above measure. In that regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[188] Since 2009, SICOES has been managed by the Bureau of Fiscal Information Management Systems of the MEFP (hereinafter DGSGIF).

[189] Since that time, the DGSGIF has been implementing a series of information technology projects, notably the Government Management System (SIGEP), including technologically upgrading the Data Processing Center (CPD), which currently supports SICOES. SICOES was also technologically upgraded in 2013 and 2014, thus modernizing and enhancing its infrastructure. The upgrade project cost more than US\$3 million.

[190] According to the reply of the country under review to the questionnaire, the progress made in the area of transparency can be seen in the publication of tenders in SICOES where, as was noted above, there has been a significant increase in the transparency of procurement since 2007, with more than 93,000 procurement processes published in 2014. With respect to the information published on SICOES, concerning tenders, tender awards, contracts, annulments, final deliveries, and rescission of contracts, among others (using an electronic form), the reply of the country under review to the questionnaire details the information submitted in paper form and recorded online by entities in the course of these procedures, and indicates that around 250,000 electronic forms were registered in 2013 and 2014, increasing the transparency of procurement processes.

[191] Another example of progress mentioned by the country under review in its reply was the elimination in 2006 of printed forms, which were rapidly replaced by electronic forms, with the result that today all information is registered online at all tiers of government, including autonomous territorial entities.

[192] In view of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of measure (b) of recommendation 1.2.5.

Recommendation 1.2.6 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Study the possibility of publishing, when appropriate, pre-bidding terms and conditions so that interested parties can find out about them and submit comments thereon.

[193] In its response to the questionnaire and during the on-site visit,^{117/} the country under review mentioned that the country's laws on procurement did not envisage the publication of pre-bidding terms and conditions, for which reason no work was done to implement the above recommendation.

116. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 84-89, supra note 11.

[194] Accordingly, the Committee reiterates the considerations and conclusions contained in the Second Round report regarding this matter,^{118/} and urges the country under review to devote further attention to its implementation. (See Recommendation 1.2.3.10 in Section 1.2.3 of Chapter II of this report.)

Recommendation 1.2.7:

Strengthen systems for the procurement of public works.

Measure suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Consider implementing control systems for each public works contract in particular which, mindful of its magnitude, provides for the performance of intervention tasks or direct supervision of execution of the contract by the contracting entity or whoever it designates; make it possible to have civic oversight mechanisms or citizen review activities; impose the duty of periodically rendering accounts on the performance of the contract; and that make it possible to determine whether the cost-benefit relationship anticipated was actually attained and whether the quality of the works was in line with what was agreed upon.

[195] In its response to the questionnaire and during the on-site visit,^{119/} the country under review presented information on the above measure. In that regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[196] SD No. 0181 which in the various forms of public procurement, regardless of its purpose (works), permits the exercise of societal oversight as provided for in the Constitution and governed by Law No. 341, as referred to above.

[197] The provisions of the Model Base Document for Procurement of Works through Public Competitive Bidding,^{120/} which is mandatory in contracts of this type and envisages such things as the works overseer,^{121/} technical supervision,^{122/} and the supervisor,^{123/} as well as the obligation to include in such contracts provisions on monitoring and supervision, inspections, project delivery, final settlement schedule, payment procedures, and contract performance, among others.

117. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 84-89, note 11.

118. See the Report on Bolivia for the Second Round, pp. 15 and 24, supra note 3.

119. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

120. Available at: https://www.sicoes.gob.bo/normativa/docs/2013_274_LP_DBC_OBRAS.pdf

121. The works inspector is a professional, employee of the contracting entity, or an individual or legal person specifically hired to represent the entity in the execution of a construction project. Legally, it is the person who, as the contractor's representative, makes the necessary decisions in the execution of the project and is in charge of technical supervision.

122. The works supervision service performed for the contractor by a subcontracted firm. It is a monitoring service by which the contractor satisfies itself that the execution of a construction project meets the terms of the contract and technical specifications.

123. An independent professional or firm of consultants that performs a technical supervision service for a construction project to be carried out. The project supervisor is jointly responsible, with the contractor, for the project's execution

[198] In this regard, the country under review indicated in its reply that since SD No. 27328, now abrogated, “works contracts included inspection, which was performed by an employee of the public sector entity; in more complex contracts the supervision was performed by individuals or firms hired by the public sector entity, whose task was to ensure compliance with technical specifications, thereby safeguarding the quality and timely execution of the project.”^{124/}

[199] In light of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of the measure suggested in recommendation 1.2.7 above, bearing in mind the obligation to include in each public works contract provisions that envisage the performance of intervention tasks or direct supervision of the implementation of the contract by the contracting entity or whoever it designates; the obligation to submit regular reports on the performance of the contract; and evaluations to ensure that the quality of the works meets the terms agreed upon.

[200] As to the possibility of civic review mechanisms or citizen oversight activities, the Committee reiterates its observations with respect to the recommendation that the country under review consider advancing and/or promoting mechanisms for societal oversight and participation in the implementation of all contracts. (See Recommendation 1.2.3.8 in Section 1.2.3 of Chapter II of this report.)

Recommendation 1.2.8 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Promote, in keeping with Article 5 of the consolidated text of Supreme Decree No. 27328 the preparation of the Specific Regulation of the System for the Administration of Goods and Services in the public sector entities that have failed to fulfill this obligation.

[201] In its response to the questionnaire and during the on-site visit,^{125/} the country under review said that owing to the fact that the new standards on government procurement set forth in SD No. 0181 and SD No. 1497, as well as in Law No. 482 on Autonomous Municipal Governments, and MEFP Resolution No. 020 require public-sector entities again to harmonize their SABS Specific Regulations, no concrete steps were taken to implement the above recommendation.

[202] In light of the foregoing, the Committee will reformulate the recommendation and urges the country under review to give further attention to its implementation. (See Recommendation 1.2.3.11 in Section 1.2.3 of Chapter II of this report.)

Recommendation 1.2.9 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Perform periodic comprehensive evaluations that make it possible to assess the use and effectiveness of the system for procurement of goods and services, and, based on its results, define and consider adopting specific measures that make it possible to ensure transparency, openness, equity, and efficiency.

124. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

125. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

[203] In its response to the questionnaire and during the on-site visit,^{126/} the country under review presented information on the above measure. In that regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered: the annual evaluations that the DGNGP performs as part of its management goals,^{127/} through its Standards Analysis and Design Unit. The country under review said that it was based on those evaluations that SD No. 0181 and SD No. 1497 (cited throughout this section) were drafted and enacted.

[204] In light of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of recommendation 1.2.9 above, given that when the second round was carried out the legal framework then in force had only recently been enacted and, therefore, the recommendation essentially concerned the performance of periodic comprehensive evaluations in order to assess the use and effectiveness of that legal framework in order, based on results of that assessment, to define and adopt the necessary measures to ensure the system's transparency, openness, equity, and efficiency; and in this case, those measures were SD 0181 and SD No. 1497.

1.2.2. New developments with respect to the provision of the Convention on government systems for the procurement of goods and services

1.2.2.1. New developments with respect to the legal framework

a) Scope

[205] SD No. 0181, cited in Sections 1.1.1 and 1.2.1 above, Article 10 of which says that the SABS will determine the means of procurement, administration, and disposition of goods and services. As was noted, that supreme decree replaced SD No. 29190 of 2007 with the aim of expediting and boosting the efficiency of government procurement processes by introducing standards to ensure transparency and social participation. SD No. 0181 is divided into a preliminary title; three titles concerning the subsystems of procurement of goods and services, administration of goods, and disposition of goods; and an Annex setting out mandatory rules for the ethical conduct for civil servants involved in government procurement of goods and services.

[206] As regards the preliminary title, which covers articles 1 to 11, SD No. 0181 defines the SABS as the set of legal, technical, and administrative provisions that governs procurement of goods and services and the administration and disposition of goods by public-sector entities in a manner interrelated with the other systems recognized in the SAFCO Law, according to the principles of solidarity, good faith, free participation, societal oversight, economy, efficiency, efficacy, equity, and transparency. Article 6 provides that the use and application of the provisions contained in SD No. 0181 and the instruments drawn up by the governing body is mandatory for all the public-sector entities mentioned in articles 3 and 4 of the SAFCO Law and those with public-law legal status, and that the CEO and the civil servants responsible for procurement, administration, and disposition of goods and services shall be answerable therefor. Failure to comply with those provisions engages liability to the relevant penalties contained in the SAFCO Law and the applicable regulatory supreme decrees.

126. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, supra note 11.

127. See Organization and Functions Manual of the MEFP (Standards Analysis and Design Unit), available at: http://www.economiayfinanzas.gob.bo/institucion/mof_lisunipdf.php?opt=&coduni=480&sw=0

[207] The preliminary title also indicates that SD No. 0181 is organized on two levels. One, termed the *normative level*, is under the responsibility of the governing body of the SABS, which is in charge of the review, update, dissemination, harmonization, technical assistance, and oversight of the proper application of SD No. 0181 in addition to the administration of SICOES. The other, termed the *executive level*, comprises all the public-sector entities whose functions and responsibilities include, among other things, compliance with and enforcement of the provisions contained in SD No. 0181, mandatory registration in SICOES of the requisite information, and drafting and harmonizing their specific regulations, which were referred to in the previous section.

[208] Owing to the contents of its provisions, Title I includes the section with the greatest scope where government systems for the procurement of goods and services referred to in Article III(5) of the Convention are concerned. Articles 12 to 111 of that title govern the procurement subsystem as the interrelated set of principles, and legal, technical, and administrative elements that regulate the process of procurement of goods, public works, general services, and consultant services.

[209] Specifically with respect to procurement processes, Article 13, as amended by SD No. 1497, envisages the following methods and amounts:^{128/}

Method	Cost ^{129/}
Minor procurement	Bs 1 to Bs 50,000
National Support for Production and Employment (ANPE)	Bs 50,000 to Bs 1,000,000
Public competitive bidding	More than Bs 1,000,000
Exceptional procurement	No cost limit
Emergency procurement	No cost limit
Direct procurement of goods and services.	No cost limit

[210] For their part, Articles 15 to 19 set forth the provisions on time frames, deadlines and schedule, calculation of base prices, agreements on external financing, recurrent procurement of general goods and services, and the granting of advance payments to cover initial expenses. Articles 20 and 21 contain the regime governing guarantees, in terms of their type and object, while articles 22 to 28 refer to aspects of the procurement process, such as the public nature of the evaluation report and recommendation; methods of selection and award; awards by items, lots, sections, or packages; rejection and disqualification of bids; rectifiable and non-rectifiable errors; and cancellation, suspension, and nullification of the procurement process. Article 29 to 31 contain provisions on the prioritization of goods produced in Bolivia as well as preference margins and adjustment factors in ANPE and public competitive bidding processes, in addition to preference margins for micro and small businesses, urban and rural small producers' associations, and peasant farmers' economic organizations under the same methods of procurement.

[211] Articles 32 to 44 apply to participants in procurement processes, stating, in the first place, that the CEO of each public-sector entity is responsible for all procurement processes from inception to conclusion. In procurement processes through public competitive bidding the person responsible will be the civil servant designated by an express decision of the CEO; the situation will be similar in

128. Article 14 of SD No. 0181 sets out the methods and amounts for municipalities with high levels of poverty.

129. Exchange rate: US \$1.00 = Bs. 6.91 (November 2015).

ANPE procurement processes. Articles 35, 36, and 37 establish, respectively, the main functions of the requesting, administrative, and legal units in each procurement process. Articles 38 and 39, for their part, set out the functions and the composition of the persons responsible, the evaluation committees, and goods and services reception committees. With respect to all the above participants, articles 40 and 41 contain the regime governing prohibitions against participating in procurement processes and causes of ineligibility to participate therein. Articles 42, 43, and 44, respectively, establish who are eligible to bid in procurement processes, those who are not allowed to participate, and the ineligibility of any individual or legal person to participate, regardless of the reason or circumstances, if a conflict of interest exists

[212] Article 45, 46, and 47 set out the guidelines for preparing the Annual Procurement Program; the base procurement document, which includes the mandatory use of the models designed and approved by the governing body; and the timetable in accordance with the characteristics and nature of the procurement, which is also mandatory. Articles 48 to 51 contain the framework on announcements and notices, including the mandatory information to be published at the registry (*mesa de partes*) and in SICOES,^{130/} the time frames, and notices distributed by e-mail and fax, and via SICOES.

[213] Insofar as the regime governing procurement is concerned, articles 52, 53, and 54 govern minor contracts, while articles 55 to 58 apply to ANPE procurement. Articles 59 to 62 govern public competitive bidding and respectively set forth the provisions on definitions, types of tenders, time frames, and the procurement process. Articles 63 to 66 refer to exceptional procurement; articles 67, 68, and 69 concern procurement in disasters and/or emergencies; and articles 70 to 73 refer to direct procurement of goods and services.

[214] Articles 74 to 84 cover procurement for specific purposes, such as government oversight audit contracts, contracts financed by the bidder, turnkey contracts, contracts in foreign countries, administrative concessions, insurance contracts, and contracts of strategic national state-owned enterprises, which, based on their legal nature, production function, and surplus generation, may undertake all their goods and services procurement through direct contracts, as well as engage in financial or operational leasing contracts.

[215] Articles 85 to 89 cover the nature and content of contracts, while articles 90 to 104 contain the regime governing administrative appeals, which are only allowed against certain decisions issued and notified in public competitive bidding and ANPE procurement processes. Articles 105 to 111 contain provisions on the general aspects of SICOES as well as mechanisms for registering information and authorization of users.

[216] SD No. 0843 of April 2011 authorized procurement by departmental and regional assemblies, respecting their autonomy.

[217] SD No. 956 of August 2011 introduced amendments to SD No. 0181 to expedite goods and services procurement processes.

130. The registry or mesa de partes is the area located in the lobby of the public-sector entity. It must be clearly identified "Mesa de Partes" and is where the Annual Procurement Program, current tenders, and unappealable decisions are published.

[218] SD No. 1121 of January 2012 included subparagraph (m) in Article 72(I) of SD No. 0181 as a ground for direct procurement of goods and services by certain entities to attend to representatives of foreign governments, diplomatic missions, international organizations, and special guests visiting the country on official missions.

[219] SD No. 1256 of June 13, 2012 amended subparagraphs (h) and (j) of Article 65 of SD No. 0181, allowing exceptional procurement by the Military Geographic Institute, the Mines Technical Geology Service, and the Consolidated Municipal Tax Administration Registry, as well as authorizing the Ministry of Defense to procure reconditioned machinery and equipment for the Armed Forces.

[220] SD No. 1497 of February 20, 2013 raised the upper limit on minor contracts to Bs. 50,000, making procurement up to 29% faster; introduced rules on framework agreements to enable entities to engage in direct procurement of common goods and general services; and created the RUPE, which is described in section 1.2.1 above.

[221] SD No. 1783 of October 30, 2013, provides that in the case of public works, final design studies, and supervision, the advance payment shall not be considered a payment for tax purposes.

[222] SD No. 1841 of December 18, 2013 added paragraph IV to Article 20 of SD No. 0181, stipulating that state-owned banks are exempt from the application of guarantees on financial operations and services.

[223] SD No. 1999 of May 14, 2014 shortened the time frames for bidding for public works contracts and the issuance of documents to formalize the contract.

[224] SD No. 2297 of March 18, 2015 added paragraph (u) to Article 65 of SD No. 0181 in order to stimulate procurement by autonomous territorial entities for productive and infrastructure projects in support of that sector.

[225] SD No. 29551 of May 8, 2008; No. 224 of July 24, 2009; No. 597 of August 18, 2010; No. 0764 of January 12, 2011; No. 0800 of February 23, 2011; No. 1306 August 1, 2012; No. 1972 of April 9, 2014; No. 1979 of April 16, 2014; No. 2005 of May 22, 2014; No. 2030 of June 11, 2014; and No. 2328 of April 15, 2015, which amended SD No. 26688 of June 5, 2002, on Procurement Abroad, set out the legal framework on procurement of specialized goods and services that public-sector entities need to do overseas, if justified by the fact that those goods and services are not available in the domestic market and bids cannot be received in the country.

b) Observations

[226] In first place, the Committee would like to recognize the new regulatory measures adopted by the Plurinational State of Bolivia to continue to push forward with the creation, maintenance, and strengthening of its systems of government procurement of goods and services as referred to in Article III (5) of the Convention, led by the provisions contained in Supreme Decree No. 0181.

[227] Having said that, it believes it useful to make a number of comments regarding the advisability of strengthening, developing, and/or adapting certain provisions that have to do with those new developments, notwithstanding the observations made by the Committee in Section 1.2.1 above in connection with the follow-up on implementation of the recommendations made to the State under review in the report from the Second Round.

[228] In that regard, based on the information at its disposal, the Committee notes the absence in SD No. 0181 of provisions that regulate and/or establish mechanisms for settling disputes between the contracting parties. However, during the on-site visit, the Committee was informed that, under article 87 of SD No. 0181, all contracts are required to include clauses on dispute settlement.

[229] In that regard, based on the Committee's examination of the model base procurement documents for ANPE contracts and public competitive bidding processes prepared by the governing body of the SABS, which are subject to mandatory use and available in SICOES, without detriment to the contentious administrative proceedings, the only mechanism for settling disputes in procurement processes is the *compulsory fiscal jurisdiction*,^{131/} which, according to the explanations on the compulsory fiscal jurisdiction offered by representatives of the PGE during the on-site visit, can only be invoked by the country, not by private individuals. When coupled with the impossibility of challenging preparatory acts in procurement processes, procedural formalities, including reports, opinions, or inspections, or any acts or decisions other than those expressly mentioned in Article 90 of SD No. 0181, this state of affairs could imply a certain imbalance in favor of the country, should doubts arise over the rights and obligations of the parties during the performance of a government contract. Accordingly, the Committee will make a recommendation in the interests of ensuring equity in the SABS, as referred to in Article III(5) of the Convention. (See Recommendation 1.2.3.12 in Section 1.2.3 of Chapter II of this report.)

[230] In this regard, it is worth noting the observations on this subject presented by representatives of civil society and private sector organizations, professional associations, and academics invited to participate in the on-site visit, concerning the importance of, and need for, alternatives to the compulsory fiscal jurisdiction for settling disputes in procurement processes. They said that the possibility used to exist of turning to arbitration to settle disagreements with the State in government contracts; however, with the entry into force of Law No. 708 (Conciliation and Arbitration Law) in June 2015 that option was expressly excluded.^{132/} They also noted that the absence of fair dispute settlement mechanisms and the attendant lack of assurances had ruled out any interest on the part of SMEs in contracting with the state, a situation that could give rise to an oligopoly of government contractors, given that SMEs account for 94% of enterprises in Bolivia according to information provided during the on-site visit.

[231] On a separate point, the Committee notes that when it comes to appointing responsible persons and members of evaluation and reception committees, Articles 38 and 39 of SD No. 0181 envisage, albeit in exceptional circumstances and when the entity concerned is without any civil servants, the designation of individual on-line consultants who, as is mentioned in sections 1.1.1 and 1.1.2 above, are not civil servants and, therefore, their rights, obligations, and liability are confined to a civil-law contract. Accordingly, bearing in mind the importance for the transparency and equity of the SABS of the work done by both committees and responsible persons, the Committee urges the country under review to consider adopting the necessary measures to ensure that the persons taking part in government procurement processes are qualified civil servants trained in the performance of the appropriate duties in those processes. This (See Recommendation 1.2.3.13 in Section 1.2.3 of Chapter II of this report.)

131. The compulsory fiscal jurisdiction was established by Article 47 of the SAFCO Law to deal with all complaints filed against acts of civil servants, public-sector entities, or individuals or private-law legal persons under administrative contracts with the State that are found to engage civil liability as defined in Article 31 of the SAFCO Law.

132. Available at: <http://goo.gl/1jRQfW>

[232] As regards the mandatory requirement for all public sector entities to prepare the Base Procurement Document, the Committee was surprised by the fact that Article 46 of SD No. 0181 expressly excludes that requirement for minor contracts, the upper cost limit of which, according to SD No. 1497, is Bs. 50,000. The Committee finds that this situation could encourage the use of this method to *divide up* contracts that, based on their cost, should be tendered out to a public competitive bidding process or some other method that requires the preparation of a base procurement document using the models drawn up and approved by the governing body as mandatory. The Committee will make a recommendation bearing in mind the foregoing. (See Recommendation 1.2.3.14 in Section 1.2.3 of Chapter II of this report.)

[233] Another aspect that the Committee wishes to highlight concerns the powers that Article 83 of SD No. 0181 grants to so-called strategic national state-owned enterprises, which, based on their production function and surplus generation, may undertake all their goods and services procurement through direct contracts for which, according to Article 13 of SD No. 0181, there is no cost limit.

[234] In that regard, and notwithstanding the information that it had at its disposal that identified the regulations governing the characteristics that a state-owned enterprise must satisfy in order to be considered strategic, the Committee considers it necessary for the country under review to consider establishing and publishing clear and objective rules to allow the transparent selection of contractors for enterprises in this category that take into account such factors as price, quality, and technical qualifications. The Committee considers that the foregoing would contribute to free competition, efficient and proper management of public resources, and the policy of the Government of the Plurinational State of Bolivia to “*generate mechanisms to support Bolivian output by creating more opportunities for all economic actors, encouraging the inclusion of micro and small enterprises, peasant farmers economic organizations, and small producers’ associations in procurement processes.*” (See Recommendation 1.2.3.15 in Section 1.2.3 of Chapter II of this report).

[235] Finally, notwithstanding its recommendation regarding the absence of a limit on the cost of contracts in direct procurement of goods and services, the Committee urges the country under review to revise its current regime governing costs for the various procurement methods envisaged in Article 13 of SD No. 0181, as amended by SD No. 1497, taking into account that some of the cost amounts and the absence of limits could give rise to the improper or arbitrary use of those forms of procurement to the detriment of the correct administration of the public purse. (See Recommendation 1.2.3.16 in Section 1.2.3 of Chapter II of this report.)

1.2.2.2. New developments with respect to technology

[236] In its response to the questionnaire and during the on-site visit,^{133/} the country under review presented information on such developments. In that regard, the Committee notes the following:

[237] – The *Mi Plataforma* initiative being implemented by the MTILC,^{134/} which is a technological tool that centralizes, manages, and publishes standardized information on strategic projects and/or services of public-sector institutions in the Plurinational State of Bolivia. During the on-site visit, the Vice Minister for Prevention, Promotion of Ethics, and Transparency gave a presentation on the initiative and said that the tool “*is designed to facilitate online access to simple and straightforward*

133. See the reply by the Plurinational State of Bolivia to the questionnaire, pp. 83 and 84, *supra* note 11.

134. See: <http://www.miplataforma.gob.bo>

information for the purposes of societal oversight and the general public.^{135/} At present, *Mi Plataforma* is being implemented as a pilot project, centralizing, managing, and disseminating information at five state entities. However, in 2015, 45 entities asked to be incorporated in the system, which is being done according to an “Implementation Strategy.”

[238] – RUPE, described in section 1.2.1 above, was rolled out in 2013 as a new model integrated with the Government Management System (SIGEP) that allows providers to register online without the need physically to submit documents for that purpose. RUPE is a web-based information sharing platform on which the provider’s information is validated directly with the data source, that is, the main public-sector entities that manage providers’ information. RUPE currently has automatic information-sharing interfaces with the General Personal Identification Service (SEGIP) to verify the information of individuals who register as government providers, through confirmation of their identity data; with the *Servicio de Impuestos Nacionales* (SIN), the tax authority, to verify the information of legal persons who register as state providers, through confirmation of their tax identity number; with Fundempresa, which holds the concession for the Business Registry in Bolivia, with which it checks that companies and one-person businesses have a valid license to do business in the State; with SICOES to check if the provider has any impediment to enter into contracts with the State because due to desisting from the formalization of a contract or breach of contract; and with private banks to confirm the bank accounts of providers with the various banks to which the State funnels payments from the central level.

[239] - SIGEP, which is currently being rolled out and is likewise mentioned in section 1.2.1 above, is designed to integrate financial and administrative systems, such as the Integrated Management and Administrative Modernization System (SIGMA), the Integrated Accounting System (the current SIGEP Móvil), the Fixed Assets Information System (SIAF), the Government Accounts Administration System (Mercurio), the Document Presentation Control System (Alexis), the Subnational Debt Administration and Information System (SAIDS), and the new version of SICOES, featuring a newly implemented electronic procurement functionality, whose roll-out is planned for 2016.

[240] The Committee recognizes and takes note of the efforts of the country under review to have in place modern information and technology systems through which to bring greater transparency, openness, equity, and efficiency to the SABS. Accordingly, it will make a recommendation that projects of this type continue to be implemented with a view to strengthening, improving, and updating existing systems. (See Recommendation 1.2.3.17 in Section 1.2.3 of Chapter II of this report.)

1.2.2.3. Results

[241] In its response to the questionnaire,^{136/} the country under review presented the following information on results obtained in relation to certain aspects of government systems for procurement of goods and services referred to in Article III(5) of the Convention:

[242] – The evolution in the publication of tenders in SICOES between 2002 and the present, where there has been a significant increase in the transparency of procurement since 2007, with more than 93,000 procurement processes published in 2014.

135. See presentation of the Vice Minister for Prevention, Promotion of Ethics, and Transparency during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

136. See the reply by the Plurinational State of Bolivia to the questionnaire, p. 119, supra note 11:

[243] – The evolution during that time in the registration of information in SICOES in print form and online, using electronic forms, with around 250,000 electronic forms recorded in 2013 and 2014:

[244] – The elimination of printed forms, which were rapidly replaced by electronic forms, with the result that today all information is registered online at all tiers of government, including autonomous territorial entities.

[245] The evolution of RUPE since its introduction in 2003, with more than 72,000 registered providers as of May 2015.

[246] The Committee finds that the above information shows the progress made in the country under review in terms of publication of tenders, registration of information in SICOES in printed form and online, and registration of information in RUPE since its inception.

[247] Having said that, with regard to government procurement processes between October 2010 and October 2015, based on information obtained from the SICOES, the Committee found the following:

Method	I	F	C	V	Amount*
ANPE (more than Bs. 200,001)	68,689	59,819	40,612	18,013	375,980,745
ANPE (less than Bs. 200,000)	168,736	155,747	104,038	48,897	138,291,453
Direct	49,160	48,821	45,217	3,521	2,224,134,604
Minor	61,081	61,066	60,995	0	2,359,057
Emergency	1,910	1,894	1,831	60	2,564
Exceptional	5,396	5,389	5,378	5	15,524,450
Public competitive bidding	17,279	15,073	9,293	5,389	545
Other methods**	14,728	14,073	10,747	3,084	4,437,705
Total	386,979	361,882	278,111	78,969	2,756,292,873

I = Initiated; F = Finalized; C = Contracted; V = Void

* In billions of bolivianos (Bs. ,000,000,000)

**Determined by the financing or regulatory agency.

[248] Between October 2010 and October 2015, more than 386,000 government procurement processes were initiated in the country under review, of which only 4.5 percent (17,279) were conducted in the form of public competitive bidding, while 44 percent (168,736) corresponded to ANPE procurement for amounts less than Bs. 200,000, 13 percent (49,160) to direct contracts, 16 percent (61,081) to minor contracts, 18 percent to ANPE contracts for amounts greater than Bs. 200,000, and the remaining 4.5 percent to emergency, exceptional, and other methods of procurement.

[249] The foregoing suggests that 65 percent of processes were initiated via the ANPE and public competitive bidding methods, which allow the free participation of an undefined number of bidders through requests for quotations, calls for bids, and public tenders in accordance with the relevant provisions of SD No. 0181 described above.

[250] However, the Committee was struck by the fact that direct procurement, which represents 13 percent of all the processes initiated, accounted for more than 80 percent of the total value of the contracts awarded, easily surpassing, in terms of funds, any other procurement method used. Accordingly, the Committee considers it timely to reiterate the observations made in the preceding sections to the effect that it would be advisable to comprehensively evaluate the current regime governing costs for the various procurement methods, taking into account that some of the cost amounts and the absence of limits could give rise to the improper or arbitrary use of those forms of procurement. At the same time, the Committee will make a recommendation that the Plurinational State of Bolivia consider adopting measures to ensure the use of methods for the procurement of goods and services that, as a general rule, allow the free participation of an undefined number of bidders, such as public competitive bidding and the ANPE processes, so that in practice the resources of the country are not mainly awarded by means of exceptional procedures for selecting contractors that do not require justification. (See Recommendation 1.2.3.18 in Section 1.2.3 of Chapter II of this report.)

1.2.3. Recommendations

[251] In light of the comments made in Sections 1.2.1 and 1.2.2 of Chapter II of this report, the Committee suggests that the country under review consider the following recommendations:

- 1.2.3.1. Consider adjusting and/or developing, as soon as possible and where applicable, laws or other instruments that regulate the systems of government procurement of goods and services, based on the principles enshrined in the Constitution of 2009. (See paragraph 144 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.2. Supplement and/or strengthen, as appropriate, internal and external oversight mechanisms for goods and services procurement through exceptional contracts, so as to prevent that method of procurement from being used improperly and/or in an arbitrary manner. (See paragraph 152 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.3. Introduce, in accordance with the principle of due process, administrative and/or judicial remedies to challenge substantive decisions in goods and services procurement through exceptional contracts, so as to allow clarification, amendment, or revocation of such decisions. (See paragraph 152 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.4. Establish a general regime of amounts that sets amounts for determining the applicability of direct procurement of goods and services. (See paragraph 156 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.5. Adopt the necessary measures to strengthen the DGNGP and to ensure the correct and impartial performance of its legally prescribed functions. (See paragraph 161 in section 1.2.1 in Chapter II of this report.)

- 1.2.3.6. Develop and implement a sanctions regime for contractors and public servants who breach or violate the rules on government procurement of goods and services. (See paragraph 165 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.7. Approve, through the corresponding authority, provisions that provide for the creation of an entity that carries out work of intervention, control, and oversight in contracts of a certain amount or complexity that so require. (See paragraph 168 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.8. Advance and/or promote mechanisms for participation and societal oversight during the implementation of contracts. (See paragraphs 174 and 200 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.9. Continue developing and implementing computer systems to allow electronic procurement of goods and services by the country. (See paragraph 186 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.10. Study the possibility of publishing, when appropriate, bidding draft terms and conditions so that interested parties can find out about them and submit comments thereon. (See paragraph 194 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.11. Urge public-sector entities that have not yet done so to draft and harmonize their specific regulations for the SABS in accordance with SD No. 0181 and other applicable provisions. (See paragraph 202 in section 1.2.1 in Chapter II of this report.)
- 1.2.3.12. Consider developing, based on the principles of equity, legality, and due process, provisions setting forth the terms, requirements, and conditions for alternative dispute settlement mechanisms in relation to public procurement, other than the compulsory fiscal jurisdiction. (See paragraph 229 in section 1.2.2.1 (b) in Chapter II of this report.)
- 1.2.3.13. Adopt the necessary measures to ensure that the persons taking part in government procurement processes are qualified civil servants trained in the performance of the appropriate duties in those processes. (See paragraph 131 in section 1.2.2.1 (b) in Chapter II of this report.)
- 1.2.3.14. Adopt the necessary measures to prevent the improper use of minor-contract procurement to *divide up* contracts that, based on their cost or other factors, should be tendered out to a public competitive bidding process or some other procurement method that requires the preparation of a base procurement document using the models drawn up and approved by the governing body as mandatory. (See paragraph 232 in section 1.2.2.1 (b) in Chapter II of this report.)

- 1.2.3.15. Establish and publish clear and objective criteria to ensure the transparent selection of contractors for strategic national state-owned enterprises in accordance with the principles of openness, equity, and efficiency envisaged in the Convention. (See paragraph 234 in section 1.2.2.1 (b) in Chapter II of this report.)
- 1.2.3.16. Comprehensively evaluate the current regime governing costs for the various procurement methods envisaged in Article 13 of SD No. 0181, as amended by SD No. 1497 in order to assess the use and effectiveness of the government procurement system and, based on the results, define and consider the adoption of specific measures to ensure observance of the principles of openness, equity, and efficiency envisaged in the Convention. (See paragraph 235 in section 1.2.2.1 (b) in Chapter II of this report.)
- 1.2.3.17. Continue implementing information technology projects and modern technological systems that ensure transparency, openness, equity, and efficiency in government systems for procurement of goods and services. (See paragraph 240 in section 1.2.2.2 in Chapter II of this report.)
- 1.2.3.18. Adopt the measures needed to ensure the use of ANPE (National Support for Production and Employment) forms of procurement and public tenders that allow for the free participation and transparent selection of contractors as a general rule for government procurement of goods and services, while observing the principles of openness, equity, and efficiency envisioned in the Convention. (See paragraph 250 in section 1.2.3 in Chapter II of this report.)

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

2.1. Follow-up on implementation of the recommendations formulated in the Second Round

Recommendation:

Implement systems for protecting public servants and private citizens who in good faith report acts of corruption.

Measure suggested by the Committee, which requires further attention under the terms envisaged in the report from the Third Round:

Adopt, through the respective authority and taking the existing legal initiative into account, a comprehensive regulation on protection of public servants and private citizens who in good faith report acts of corruption, including protecting their identity, in accordance with the Constitution and the fundamental principles of the domestic legal order, which could include, among others, the following aspects:

- a) *Coverage for those who report acts of corruption that may or may not be defined as criminal offenses, but which could be subject to judicial or administrative investigation;*
- b) *Protection measures, targeting not just the protection of the physical integrity of whistleblowers and their families, but also the protection of their positions of employment, particularly for public officials and when the acts of corruption could involve their superiors or co-workers;*
- c) *Reporting mechanisms, such as identity-protected complaints, to guarantee the personal security and identity confidentiality of public officials and private citizens who, in good faith, report acts of corruption;*
- d) *Mechanisms for reporting the threats or reprisals that informants may face, indicating the authorities responsible for processing protection requests and the agencies responsible for providing such protection;*
- e) *Mechanisms for the protection of witnesses, providing them with the same guarantees as public officials and private citizens;*
- f) *Mechanisms to facilitate, when appropriate, international cooperation in the above areas, including the technical assistance and reciprocal cooperation described in the Convention, along with exchanges of experiences, training, and mutual assistance.*
- g) *Simplified application for whistleblower protection;*
- h) *Provisions which sanction noncompliance with rules and/or obligations relating to protection.*
- i) *The competence of the judicial and administrative authorities regarding these matters, clearly distinguishing one from the other.*

[252] Both in its reply to the questionnaire^{137/} and during the on-site *visit*, the country under review presented information with respect to the above measure. In that regard, the Committee notes the following as steps that contribute to progress in its implementation:

[253] – Law No. 004, Article 17 of which established the *Whistleblowers and Witnesses Protection System* organized by the Ministry of the Interior, the Bolivian Police, and the Public Prosecution Service to provide adequate protection against any threat, aggression, reprisal, or intimidation directed against whistleblowers and witnesses, as well as experts, technical advisors, public servants and others directly or indirectly involved in the investigation, prosecution, indictment, and trial of acts of corruption.

[254] – Law No. 458^{138/} on the Protection of Whistleblowers and Witnesses (hereinafter “Law No. 458”) promulgated on December 19, 2013, which established the implementing regulations for the *National Whistleblowers and Witnesses Protection System* (hereinafter referred to by its Spanish acronym “SNPDT”) aimed, pursuant to international anti-corruption conventions and other

137. See the reply by the Plurinational State of Bolivia to the questionnaire, pp.83 and 84, *supra* note.

138. Available at: <http://goo.gl/ZkpHlh>

international instruments, at protecting public servants and former public servants, private individuals and their next of kin, who could be subjected to reprisals^{139/}.

[255] As regards subparagraph a) of the measure suggested by the Committee, pursuant to Article 3, Law No. 458 applies to people who carried out, are carrying out, or are about to carry out a protected activity^{140/} in respect of the following offenses: organized crime, terrorism, corruption and drug trafficking, acts against children or adolescents, violence against women, the trafficking and smuggling of persons and/or violation of fundamental rights. Law No. 458 also applies to next of kin^{141/} and others named by the protected person.

[256] The SNPDT established by Law No. 458 provides for the following protection measures: 1) safeguarding of the identity and confidentiality of personal data; 2) safeguarding of labor rights; 3) police protection during transportation relating to administrative and/or judicial proceedings; 4) a police guard outside the person's home; 5) the use of technological devices to prevent disclosure of the person's identity; 6) masking/distortion of a person's physical appearance or voice; 7) temporary accommodation in secret and police-guarded shelters designed to protect victims and witnesses; 8) psychological counseling; 9) in the case of protected persons deprived of their liberty, separation from other prison inmates or confidential transfer to another penitentiary with greater security; and 10) other measures that may be adopted to ensure the safety of the protected person.

[257] According to Article 6 of Law No. 458, the above measures may be granted before, during and after a proceeding, provided that a person has carried out or is about to carry out a protected activity. This is an illustrative, non-exhaustive list: the competent authority may adopt any other measure it deems appropriate for the purposes established in Article 2 of the Law. All protection measures need to be immediate and effective. The procedures required for granting protection measures need to be swift, uncomplicated, and expeditious. Moreover, pursuant to Chapter IV of Law No. 458 and without prejudice to the powers of the competent authorities, all state bodies are obliged to cooperate and adopt whatever measures are needed to ensure that these regulations are effective.

[258] As regards subparagraph b) of the measure suggested by the Committee, Article 9 of Law No. 458 provides for the safeguarding of labor rights, and points out, first, that no public servant or private individual may be subjected to reprisals in the workplace^{142/}, for having performed a protected act. To that end, the Ministry of Labor, Employment, and Social Security (MTEPS) adopted Ministerial Resolution No. 479/14^{143/} of August 12, 2014, which establishes the procedure to be followed in attending to requests for protective measures safeguarding labor rights in connection with the aforementioned law. In that regard, during the on-site visit, the representative of that Ministry

139. Reprisal. Any form of punishment, harm, persecution, harassment, verbal, physical, or psychological violence; or any action against the protected person or his or her next of kin. (Article 4.4 of Law 458).

140. Protected activity Any of the following actions: a) a written or oral report to the competent authority regarding the alleged commission of a crime; b) lawful disclosure of information or evidence leading or contributing to the start or continuation of an investigations; c) intervention as a witness, expert, or technical advisor, or other form of direct or indirect participation in an administrative inquiry or judicial proceeding. (Article 4.2 of Law No. 458).

141. Next of kin. Ascendant or descendant relative, brother or sister, spouse or partner of the protected person; or persons who are directly dependent on the protected person. (Article 4.6 of Law No. 458).

142. Reprisals in the workplace. Any form of imposition of disciplinary punishments; forced retirement; dismissal; reprimand; suspension; transfer to another unit; unwarranted change of functions; change in working hours or other working conditions; unjustifiably negative evaluation; verbal, physical, psychological or sexual harassment; hostility; or any other formal or informal act or practice that results in impairment of the working environment for the public servant or private individual, at the same time as, or subsequent to, the performance of a protected activity by the protected person. (Article 4.4 of Law 458).

143. Available at: <http://www.mintrabajo.gob.bo/Upload/Normativa/NOR-90-15082014/RM-479-14.PDF>

indicated that, since this procedure was introduced, eight orders for labor rights protection had been issued, five of which were being implemented.

[259] With respect to subparagraphs c) and d) of the measure suggested by the Committee, Article 8 of Law No. 458 provides that the Ministry of the Interior, the Ministry of Institutional Transparency and Combating Corruption (MTILCC), the Public Prosecution Service and the Bolivian Police, need to set up mechanisms for protecting the identity of whistleblowers, which means making sure that all the data that could identify or locate a whistleblower or witness are kept confidential in all case files and inquiries.

[260] In that regard, during the on-site visit, the Vice-Minister of Citizen Security who was representing the Ministry of the Interior referred, among other things, to the issuance of Ministerial Resolution No. 124/2014 of May 27, 2014, adopting that Ministry's Internal Rules of Procedure for processing whistleblowers' and witnesses' requests for protection. It was pointed out that that instrument sought to regulate the Ministry's powers under Article 25 and other applicable provisions of Law No. 458, including authority to direct and execute protection measures through the Bolivian Police in cases involving the safeguarding of the physical integrity of whistleblowers and witnesses; coordinating, where applicable, with the Public Prosecution Service, the adoption of measures through its Directorate of Protection for Victims, Witness, and Members of the Public Prosecution Service; and formulating and coordinating international police cooperation policies for the protection of protected persons.

[261] Nevertheless, the Vice Minister of Citizen Security reported that so far, despite the aforementioned Rules of Procedure, there had been no requests for protection and police guards.

[262] Subsequently, in his remarks^{144/} during the on-site *visit*, the representative of the Public Prosecution Service said, about its role in the SNPDT, that it had a Directorate devoted exclusively to protecting and assisting victims, whistleblowers, and witnesses called the Directorate of Protection for Victims, Witness, and Members of the Public Prosecution Service.

[263] That Directorate was established in the Service's Organic Law (LOMP) to promote protection and assistance for victims of crimes, witnesses, people collaborating with criminal prosecution activities, and Public Prosecution Service personnel. Since 2013, this Directorate has had Victim and Witness Protection Units in all nine of the State Departmental Public Prosecutors' Offices (*Fiscalías Departamentales del Estado*).

[264] Regarding the functions assigned to it by Law No. 458, the representative of the Public Prosecution Service reported that the Directorate had developed a victims' and witnesses' protection model known as the I.S.A.P. model. It was described as a guideline to concepts and procedures aimed at training, informing, directing and guaranteeing integral care for victims, witnesses, and whistleblowers by Public Prosecution Service personnel, based on four core components: information, follow-up (*seguimiento*), assistance, and protection (hence the Spanish acronym I.S.A.P.).

[265] Among the purposes served by the I.S.A.P. is the provision of information about channels for filing denunciations/complaints; roles during proceedings; rights and guarantees; and the provision of protection measures based on risk levels and perceived needs.

144. See the presentation by the Public Prosecution Service during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

[266] Given that the Model is directed at personnel of the Public Prosecution Service, it is they who are supposed to help victims, whistleblowers, and witnesses by informing them of their rights; when and how a right is deemed to have been violated and how to restore it; how they can participate in proceedings and the assistance they can receive, and how they can access certain proceedings while keeping their identity secret, and so on.

[267] Another mechanism used by the Public Prosecution Service to protect victims, witnesses, and whistleblowers, and mentioned during the on-site visit, is a room with a *Gesell dome* camera that, among other uses, keeps the victim, witness, or whistleblower safe, while guaranteeing his or her privacy and security during a confrontation or interview. Here the representative of the Public Prosecution Service explained that the *Gesell dome camera* had mostly been used to gather testimony in cases involving violence and trafficking in persons, but it would be useful for anticorruption prosecutors to help them obtain testimony and statements from whistleblowers while protecting them.

[268] As for the powers and responsibilities of the MTILCC within the SNPDT, Law No. 458 assigns this government portfolio competence in connection with persons who have performed or are about to perform a protected activity relating to corruption offenses. Furthermore, pursuant to the transitional provision in that Law, the MTILCC, through Ministerial Resolution No. 025/2014^{145/} of June 16, 2014, adopted the implementing regulations for the Whistleblowers and Witnesses Protection Law, which govern internal procedures for receiving requests for protection in cases involving corruption offenses and their referral to the Ministry of the Interior, MTEPS or Public Prosecution Service, as applicable, in order for those entities to evaluate and grant or deny the protection measures requested.

[269] As regards implementation of subparagraph c) of the measure suggested by the Committee, it is worth pointing out that Article 26 of Law No. 458 establishes that the MTILCC shall, among other responsibilities, keep secret the identity of the protected person and the documentation submitted, collected, and generated in the performance of its functions, in accordance with Article 17.III of Law No. 004 and Article 8 of Law No. 458, in addition to taking any other steps needed to safeguard the confidentiality of the personal data of protected persons and prevent them from being identified.

[270] On this matter, during the on-site visit, the Vice Minister responsible for Combating Corruption in the country under review furnished information ^{146/} on the status of requests for protection processed by the MTILCC in fiscal year 2014 through September 2015 and referred to the competent entities (mostly to the MTEPS for protection measures in cases of workplace reprisals).

[271] In light of the above, the Committee takes note of the steps taken by the country under review to move forward with implementing the aforementioned recommendation and suggested measure, above all with the establishment of the SNPDT through the recently passed Law No.458. As a result, the Committee is of the opinion that the Plurinational State of Bolivia has given satisfactory consideration to sections a), e) and i) of the suggested measure.

[272] That being so, the Committee deems it appropriate to reformulate the recommendation and suggested measure, so that the country under review may consider taking further steps to maintain and strengthen the SNPDT, above all as regards acts of corruption, and paying additional attention to the implementation of the matters discussed in subparagraphs f), g) and h) of the suggested measure,

145. Available at: http://www.transparencia.gob.bo/data/transparencia/reglamentosinternos/RM_025_2014.pdf

146. See the presentation by the Vice Minister for Combating Corruption during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

possibly taking into account, to that end, the criteria set forth in the “Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses,” which is posted on the Anticorruption Portal of the Americas ^{147/}. (See Recommendations 2.3.1, 2.3.2, and 2.3.3 in Section 2.3. of Chapter II of this report.)

2.2. New developments regarding the provision of the Convention on systems for protecting public servants and private citizens who, in good faith, report acts of corruption

2.2.1. New developments with respect to the legal framework

a) Scope

[273] – Law No. 004, mentioned in the foregoing section, which established the *Whistleblowers and Witnesses Protection System* organized by the Ministry of the Interior, the Bolivian Police, and the Public Prosecution Service to provide adequate protection against any threat, aggression, reprisal, or intimidation directed against whistleblowers and witnesses, as well as experts, technical advisors, public servants and others directly or indirectly involved in the investigation, prosecution, indictment, and trial of acts of corruption.

[274] – Law No. 458, referred to in the previous section, regulated, pursuant to international anti-corruption conventions and other international instruments, the SNPDT, with a view to protecting public servants and former public servants, private individuals and their next of kin at risk of reprisals.

[275] – The LOMP, referred to in the foregoing section, at Articles 88 et seq. established and regulated the Directorate for Protection and Assistance to Victims, Witnesses, and Members of the Public Prosecution Service as the body responsible for promoting protection and assistance for victims of crimes, witnesses, persons collaborating with criminal prosecutions and personnel pertaining to the Public Prosecution Service.

[276] – Ministerial Resolution No. 124/2014 of the Ministry of the Interior, mentioned in the foregoing section, adopted that Ministry's internal Rules of Procedure for processing requests for protection for whistleblowers and witnessed, pursuant to Law No. 458.

[277] – Ministerial Resolution No. 479/14, adopted by the Ministry of Labor on August 12, 2014, as mentioned in the preceding section, which determines the procedure for dealing with requests for protection measures to preserve labor rights under the aforementioned Law 004 and Law 458.”

[278] – Ministerial Resolution No. 025/2014 of the MTILCC, referred to in the foregoing section, established internal Rules of Procedure for receiving requests for protection in cases involving acts of corruption and referring them to the Ministry of the Interior, the MTEPS, or the Public Prosecution Service, as applicable, pursuant to Law No. 458.

147. Available at: http://www.oas.org/juridico/PDFs/ley_modelo_proteccion.pdf

b) Observations

[279] The Committee wishes to acknowledge the new regulatory steps, starting with the provisions of Law No. 458, taken by the Plurinational State of Bolivia in order to continue progress toward the establishment, maintenance, and strengthening of the systems for protecting the public servants and private citizens who, in good faith, report acts of corruption referred to in Article III.8 of the Convention.

[280] Nevertheless, based mainly on information garnered during the on-site *visit*, the Committee deems it appropriate to consider the advisability of supplementing these new developments, without prejudice to the observations formulated in foregoing Section 2.1 regarding follow-up to implementation of the recommendation made to the country under review in the Second Round report.

[281] First, based on Chapter IV of Law No. 458, the Committee notes that the SNPDT is in charge of three different government institutions mandated by law to work, together with the MTILCC, in coordination with one another in order to comply with the purposes and objectives established in Law No. 458 within the framework of the powers it confers on them.

[282] However, even though reference was made in the on-site mission of the periodic meetings held in connection with the *National Council to Combat Corruption, Illicit Enrichment, and the Laundering of Ill-gotten Gains (Consejo Nacional de Lucha contra la Corrupción, Enriquecimiento Ilícito y Legitimación de Ganancias Ilícitas)*, established in Article 6 of Law No. 004, which is chaired by the MTILCC and comprises the Ministry of the Interior, the Public Prosecution Service, the Office of the Comptroller General (CGE), the Financial Investigations Task Force, the Office of the Attorney General (PGE), and representatives of civil society organizations, the Committee noted the lack of efficient inter-agency mechanisms for coordination among all the units involved in providing protection to whistleblowers and witnesses, especially those reporting acts of corruption. Such mechanisms would ensure, among other things, the adequate, timely and, where applicable, confidential exchange of information needed for the SNPDT to function effectively. Accordingly, the Committee will make a recommendation along these lines. (See Recommendation 2.3.4 in Section 2.3. of Chapter II of this report.)

[283] In addition, having regard to the fact that the SNPDT was established fairly recently, in their remarks during the on-site visit, most of the representatives of the government institutions responsible for enforcement of Law No. 458 pointed to the need to boost their institutional capacities so as to ensure correct and timely identification of risks and of protection needs pursuant to the powers that the Law confers on each of them. The Committee will therefore formulate a recommendation in that regard. (See Recommendation 2.3.5 in Section 2.3. of Chapter II of this report.)

[284] It was likewise pointed out that, given the relatively recent establishment of the SNPDT, both public servants and the general public were noticeably unfamiliar with protection mechanisms and procedures and with the bodies that one could go to report acts of corruption, without prejudice to the actions being taken, especially by the MTILCC, in this regard, such as the International Seminar on “Protection for Whistleblowers and Witnesses of Acts of Corruption,” held in December 2014 or the “Workshop to Analyze Enforcement of Law No, 458,” held in July 2015, and so on. Accordingly, the Committee will formulate a recommendation. (See Recommendation 2.3.6 in Section 2.3. of Chapter II of this report.)

[285] With respect to the above, the Committee will formulate another recommendation, bearing in mind also that some of the representatives of the country under review involved in implementing the SNPDT pointed, during the on-site visit, to certain technical cooperation needs, such as training operators to evaluate protection needs and identify risk levels; implement technological systems or tools, exchange experiences with other countries on ways to coordinate the whistleblowers and witnesses protection system among different agencies; and to draw up a plan for implementing Law No. 458 that includes other governmental, departmental, and municipal bodies in order to guarantee its sustainability. (See Recommendation 2.3.7 in Section 2.3. of Chapter II of this report.)

[286] Finally, in its reply to^{148/} the questionnaire, the country under review mentions the lack of financial resources as an obstacle to proper implementation of Law No. 458 by the government institutions charged with that task. The Committee will therefore make a recommendation concerning that aspect. (See Recommendation 2.3.8 in Section 2.3. of Chapter II of this report.)

2.2.2. New developments with respect to technology

[287] Neither in its reply to the questionnaire nor during the on-site *visit*, did the country under review provide information with regard to any developments of this kind.

2.2.3. Results

[288] Without prejudice to the information provided by the Vice-Minister for Combating Corruption of the country under review on the status of applications for protection processed by the MTILCC in fiscal year 2014 through September 2015 and forwarded to the competent authorities (see Section 2.1 above), the Committee will recommend that the institutions responsible for assessing and/or granting protection measures for public servants and private citizens who in good faith report acts of corruption, should have statistical information at their disposal regarding actions undertaken to fulfill the functions assigned to them by law No. 458, with a view to identifying challenges and adopting, where applicable, corrective measures. (See Recommendation 2.3.9 in Section 2.3. of Chapter II of this report.)

[289] Finally, and given that the legal framework in place in this respect is relatively recent, the Committee urges the country under review to consider performing periodic comprehensive evaluations that make it possible to assess the use and effectiveness of the SNPDT, and, based on their findings, to define and adopt such measures as are deemed appropriate to ensure the system's transparency, openness, equity, and efficiency. (See Recommendation 2.3.10 in Section 2.3. of Chapter II of this report).

2.3. Recommendations

[290] In light of the comments made in Sections 2.1 and 2.2 of Chapter II of this report, the Committee suggests that the country under review consider the following recommendations:

148. See the reply by the Plurinational State of Bolivia to the questionnaire, p.106, *supra* note 11.

- 2.3.1. Establish mechanisms, where applicable, to facilitate international cooperation in the field of protection for whistleblowers and witnesses of acts of corruption, including the technical assistance and mutual cooperation envisaged in the Convention, along with the sharing of experiences, training, and mutual assistance, bearing in mind the criteria established in the “Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses.” (See paragraph 272 in Chapter II, Section 2.1 of this report.)
- 2.3.2. Develop simpler ways of applying for protection. (See paragraph 272 in Chapter II, Section 2.1 of this report.)
- 2.3.3. Adopt a system for penalizing non-compliance with rules and/or obligations with respect to protecting whistleblowers and witnesses of acts of corruption, having regard to the criteria established in the “Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses.” (See paragraph 272 in Chapter II, Section 2.1 of this report.)
- 2.3.4. Establish effective and full-time mechanisms for interagency coordination, as needed, among the MTILCC, the Ministry of the Interior, the Public Prosecution Service, the MTEPS, and the Bolivian Police in order to ensure the smooth performance of the functions assigned to them in Law No. 458 as well as effective and timely collaboration among them aimed at achieving the goals of the SNPDT. (See paragraph 282 in section 2.2.1 (b) in Chapter II of this report.)
- 2.3.5. Adopt such measures as are needed to strengthen the institutional capacities of the MTILCC, the Ministry of the Interior, the Public Prosecution Service, the MTEPS, and the Bolivian Police to evaluate and promptly grant the protection measures envisaged in Law No. 458 for public servants and private citizens who in good faith report wrongdoing, especially acts of corruption. (See paragraph 283 in section 2.2.1 (b) in Chapter II of this report.)
- 2.3.6. Conduct awareness campaigns, workshops, seminars, or other similar activities designed to disclose and disseminate the nature, content, and scope of Law No. 458 and the protection measures it affords public servants and private citizens who, in good faith, report wrongdoing, especially acts of corruption. (See paragraph 284 in section 2.2.1 (b) in Chapter II of this report.)
- 2.3.7. Take the necessary steps to obtain from international organizations, cooperation agencies, or agencies and other bodies in other States, technical cooperation in such areas as training operators to evaluate protection needs and identify risk levels; implementing technological systems or tools, exchanging experiences with other countries on ways to coordinate the whistleblowers and witnesses protection system among different agencies; and drawing up a plan for implementing Law No. 458 that includes other governmental, departmental, and municipal bodies in order to guarantee its sustainability. (See paragraph 285 in section 2.2.1 (b) in Chapter II of this report.)

- 2.3.8. Endow the MTILCC, the Ministry of the Interior, the Public Prosecution Service, the MTEPS and the Bolivian Police, to the extent that resources are available, with the financial, human, and technical resources needed to provide the protection measures contemplated in Law No. 458 for public servants and private citizens who, in good faith, report wrongdoing, especially acts of corruption. (See paragraph 286 in section 2.2.1 (b) in Chapter II of this report.)
- 2.3.9. Have the MTILCC, the Ministry of the Interior, the Public Prosecution Service, the MTEPS and the Bolivian Police prepare statistics on actions undertaken to comply with the specific functions assigned to them in Law No. 458, such as the number of cases in which whistleblowers and witnesses have requested protection, the number of cases in which they received it, the type of measure granted, the number of applications for protection that were denied and the reasons why they were denied with a view to identifying challenges and, where applicable, adopting corrective measures. (See paragraph 289 in section 2.2.3 in Chapter II of this report.)
- 2.3.10. Conduct comprehensive periodic assessments to gauge the use and effectiveness of the SNPDT and, based on their findings, define and consider the adoption of specific measures which ensure transparency, openness, equity, and efficiency in its operations. (See paragraph 289 in section 2.2.3 in Chapter II of this report.)

3. ACTS OF CORRUPTION (ARTICLE VI (1) OF THE CONVENTION)

3.1. Follow-up on implementation of the recommendations formulated in the Second Round

Recommendation 3.1 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

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

[291] Both in its reply to the questionnaire^{149/} and during the on-site *visit*, the country under review presented information regarding the above recommendation. In this regard, the Committee notes the following as steps that lead it to believe that it has been satisfactorily considered:

[292] – Law No. 004, cited in foregoing sections, Article 1 of which “...*establishes mechanisms and procedures in the framework of the Constitution, laws, international treaties and conventions designed to prevent, investigate, prosecute, and punish acts of corruption committed by public servants and former public servants in the performance of their duties, as well as by individuals or legal entities, and the legal representatives of such public or private, domestic or foreign legal entities that impair or adversely affect State resources; and to recover those State resources through the competent judicial organs.*”

149. See the reply by the Plurinational State of Bolivia to the questionnaire, pp.107 to 112, *supra* note 11.

[293] For its part, Article 2 defines “corruption” as “...*the solicitation or acceptance, offer or direct or indirect granting by a public servant, a national or foreign individual or legal entity of any object of monetary value or other benefits, such as gifts, favors, promises, or advantages for himself or for another person or entity in exchange for performing or omitting to perform any act detrimental to the interests of the State.*”

[294] Likewise, Article 24 of Law No. 004 defines as acts of corruption the offenses referred to in the following Articles of the Criminal Code which are related to the offenses described in Article VI.1 of the Convention, namely:

[295] With respect to Article VI.1.a of the Convention:

[296] • Article 145. (Solicitation or Acceptance of Bribes for Violation of Official Duty) (*Cohecho Pasivo Propio*) *Any civil servant or authority who, in order to perform or omit to perform an act relating to his functions or contrary to the duties of his position, receives either directly or through an intermediary, for himself or a third party, gifts or any other benefit, or who accepts offers or promises, shall be deprived of liberty for between three (3) and eight (8) years and fined between fifty (50) and one hundred and fifty (150) days.*

[297] • Article 146. (Influence Peddling) (*Uso Indevido de Influencias*). *Any civil servant or authority who either directly or through an intermediary, and taking advantage of his functions or unlawfully making use of influence derived from them, obtains advantages or benefits for himself or a third party shall be deprived of liberty for between three (3) and eight (8) years and fined between one hundred (100) and five hundred (500) days.*

[298] • Article 147. (Acceptance of Gifts/Benefits in Consideration of One's Position) (*Beneficios en Razón del Cargo*). *Any civil servant or authority who in consideration of his position accepts gifts or other benefits shall be punished with deprivation of liberty of between three (3) and eight (8) years and a fine of one hundred (100) to two hundred and fifty (250) days.*

[299] • Article 150. (Negotiations Incompatible with the Exercise of Public Office) (*Negociaciones Incompatibles con el Ejercicio de Funciones Públicas*). *Any civil servant who on his own or through an intermediary or by means of a simulated act (acto simulado) seeks and obtains for himself or a third party a benefit in any contract, delivery, auction, or operation in which he is involved by virtue of his position shall be deprived of liberty for five (5) to ten (10) years and fined between thirty (30) and five hundred (500) days.*

[300] • Article 151. (Extortion) (*Concusión*). *Any civil servant or authority who, by misusing his status or functions, directly or indirectly demands or obtains money or other benefit that is illegitimate or in an amount higher than that established by law, to his own benefit or that of a third party shall be deprived of liberty for three (3) to eight (8) years..*

[301] • Article 152. (Exaction) (*Exacciones*). *Any civil servant who demands or obtains the exactions referred to in the foregoing Article in order to convert them to the benefit of the public administration shall be deprived of liberty for between one (1) and four (4) years. If any violence is used in the cases referred to in the foregoing Articles, the punishment shall be increased by one third.*

[302] Article 173 bis: (Solicitation or Acceptance of Bribes by the Judge or Prosecutor) (*Cohecho Pasivo de la Jueza, Juez o Fiscal*). *Any judge or prosecutor who accepts promises or gifts to hand down, delay, or not hand down a resolution or judgment in a matter assigned to him shall be*

punished with deprivation of liberty for five (5) to ten (10) years and a two hundred (200) to five hundred (500)-day fine, plus special disqualification from acceding to any public and/or elective office. The same punishment shall be imposed on any attorney or attorneys who, with the same aim and effect, orchestrate such associations with one or several judges or prosecutors, or also pertain to them.

[303] With respect to Article VI.1.b of the Convention:

[304] • Article 158. (Bribery of Government Official) (*Cohecho Activo*). *Anyone who directly or through another person gives or promises a government official or authority gifts or any other benefit, to do or omit to do something relating to his functions, shall be punished with the penalty established in Article 145, diminished by one-third. A private person who may have accepted at some time the request for a gift or benefit made by an authority or government official and who reports the fact to the competent authority before the opening of the corresponding criminal proceedings shall be exempt from punishment for this offense.*

[305] With respect to Article VI.1.c of the Convention:

[306] • Article 142. (Embezzlement) (*Peculado*) *Any civil servant who takes advantage of his position to appropriate money, securities or assets that he is responsible for administering, collecting, or safeguarding shall be deprived of liberty for five (5) to ten (10) years and fined two hundred (200) to five hundred (500) days.*

[307] • Article 146. (Influence Peddling) (*Uso Indevido de Influencias*). *Any civil servant or authority who either directly or through an intermediary, and taking advantage of his functions or unlawfully making use of influence derived from them, obtains advantages or benefits for himself or a third party shall be deprived of liberty for between three (3) and eight (8) years and fined between one hundred (100) and five hundred (500) days.*

[308] • Article 174. (Association of Judges, Prosecutors, Police Officers, and Attorneys) (*Consortio de Jueces, Fiscales y/o Abogados*). *Any judge or prosecutor who orchestrates the formation of associations with one or several attorneys or police officers, or is part of them, for the purpose of obtaining illicit economic advantages to the detriment of the sound administration of justice, shall be punished by deprivation of liberty for five (5) to ten (10) years.*

[309] • Article 173. (Embezzlement as a Result of Negligence) (*Peculado Culposo*): “*Any government official who through negligence (culposamente) permits the commission of said offense shall be punished with forced labor for between one (1) month and one (1) year and with a fine of twenty (20) to fifty (50) days.*”

[310] With respect to Article VI.1.d of the Convention, Article 34 of Law No.004 modifies, inter alia, Article 144 of the Criminal Code and incorporates Article 172 bis, which are transcribed below:

[311] • Article 144. (Misappropriation) (*Malversación*). *Any civil servant who uses the state property that he administers, receives, or safeguards for a purpose other than that for which they are intended shall be punished with deprivation of liberty of between three (3) and eight (8) years and a fine of one hundred (100) to two hundred and fifty (250) days.*

[312] Article 172 bis: (Cover-Up in Relation to Corruption Offenses) (*Receptación Proveniente de Delitos de Corrupción*). *Whoever, after a corruption offense has been committed, helps the principal secure the benefit or proceeds of it or knowingly receives, hides, sells, or purchases the proceeds obtained by criminal means, shall be punished with deprivation of liberty for three (3) to eight (8) years and the seizure of the ill-gotten assets.*

[313] Similar to Article VI.1.d of the Convention is Article 26 of Law No. 004, which includes the following as a corruption offense:

[314] • Article 26. (Unlawful use of public goods and services) *Any public servant who to his own advantage or that of third parties uses assets, entitlements, or actions pertaining to the State or its institutions, to which he has access in the performance of public office, for purposes other than those for which they are intended shall be punished with deprivation of liberty of between one (1) and four (4) years. Should the asset, as a result of its unlawful use, be damaged, destroyed, or extinguished, the punishment shall be deprivation of liberty of] between three (3) and eight (8) years and reparation for the damage caused. The punishment referred to in the first paragraph shall be imposed on any individual or public servant who uses the services of persons paid by the State or of persons fulfilling a legal duty for a purpose other than that for which they were hired or intended.*

[315] In light of the above, the Committee takes note of the satisfactory consideration by the country under review of Recommendation 3.1 above.

Recommendation 3.2 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Repeal the second paragraph of Article 172 of the Criminal Code, which exempts those who aid and abet their ascendants, descendants, or spouse from punishment.

[316] Both in its reply to the questionnaire and during the on-site *visit*, the country under review provided the following information, which leads the Committee to consider that the foregoing recommendation is no longer relevant:

[317] “*Although the Bolivian State has not repealed the second paragraph of Article 172 of the Criminal Code for criminal policy reasons, because cover-up among family members cannot be punished due to the special relationships between such persons, a new legal definition has been created incorporating Article 172 bis of the Criminal Code which regulates cover-ups specifically for corruption offenses, eliminating that exonerating circumstance, which only applies to common crimes.*”^{150/}

[318] With regard to the above, during the on-site *visit*, the representative of the Ministry of Justice explained^{151/} the scope of the *criminal policy reasons* mentioned by the country under review in its reply. The representative explained that the second paragraph of Article 172 that the recommendation wanted to see repealed refers to an *exonerating circumstance rule* for cover-up among family members sanctioned by Article 171 of the Criminal Code by virtue of such provisions as Article 62 of the Constitution, which talks about State recognition and protection of the family as the fundamental nucleus of society and about guaranteeing the social and economic conditions needed for its

150. See the reply by the Plurinational State of Bolivia to the questionnaire, p.113, supra note 11.

151. See the presentation by the Ministry of Justice during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

development, and Article 6 of Law No. 603 (Family Code), which establishes the principle of solidarity, according to which family members must act with mutual understanding, participation, cooperation, and joint effort. However, the representative stressed that, since the entry into force of Law No. 004 that *exonerating circumstance rule* contemplated in the second paragraph of Article 172 of the Criminal Code, did not apply to corruption offenses.

[319] It is also important to point out that Article 108.8 of the Constitution establishes that Bolivians have a duty “*report and combat all acts of corruption*”.

[320] In light of the above and bearing in mind that the provision in the second paragraph of Article 172 that the Committee wished to see repealed is no longer applicable to corruption offenses, the Committee considers that the foregoing recommendation 3.2 is no longer relevant.

Recommendation 3.3 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Amend Article 132 of the Criminal Code to require a minimum of two people for commission of the crime of criminal association.

[321] In its reply to the questionnaire^{152/}, the country under review presented the following information as an alternative measure for implementing the above recommendation, which leads the Committee to consider that it is no longer relevant:

[322] – The classification of the crime of criminal association defined in Article 132 of the Criminal Code as an offense related to corruption, pursuant to Article 24 of Law No. 004, which permits application of the special rules governing corruption contemplated in Law No. 004 for prosecuting and punishing it.

[323] In light of the above, and bearing in mind that the conduct described in Article 132 of the Criminal Code which the recommendation suggested amending is considered a corruption-related offense; and that the Convention does not expressly establish a minimum number of persons for it to be considered that an association exists for the commission of any of the acts referred to in Article IV of the Convention, the Committee regards above recommendation 3.3 as no longer relevant.

Recommendation 3.4 suggested by the Committee, which requires further attention in the Framework of the report from the Third Round:

Select and have the Judiciary, Public Prosecution Service, and relevant government entities develop, where appropriate and if they do not yet exist, procedures and indicators for analyzing the results of the systems, rules, measures, and mechanisms considered in Section 3 of Chapter II of the present report.

[324] In its reply to the questionnaire, the country under review said there was no progress to report on implementation of the foregoing recommendation, so that the Committee reiterates the need to pay additional attention to its implementation.

152. See the reply by the Plurinational State of Bolivia to the questionnaire, p.114, supra note 11.

[325] Nevertheless, bearing in mind that in connection with the Fourth Round, a detailed analysis was performed of the results obtained by the Public Prosecution Service, the Judiciary (through the Judicial Council and the Supreme Court of Justice), and the MTILCC in the performance of their respective functions of prosecution, investigation, punishment, and prevention of acts of corruption, in their capacity as oversight bodies pursuant to Article III.9 of the Convention, the Committee abides by its conclusions and recommendations set forth in the Fourth Round Report ^{153/} regarding the importance of the country under review considering preparing, for each of these institutions, statistical information on the performance of their functions designed in such a way as to throw light on the results they have achieved, identify challenges, and, where applicable, adopt corrective measures. (See Recommendations 1.4.7; 2.4.9 and 3.4.6 of the Fourth Round)

[326] In light of the above, the Committee considers that Recommendation 3.4 above is no longer relevant.

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

3.2.1. New developments with respect to the legal framework

a) Scope

[327] – Law No. 004, described in earlier sections which inter alia, establishes new anti-corruption rules within the framework of the Constitution, the Convention and the law, which amend and create criminal provisions punishing acts of corruption.

b) Observations

[328] The Committee recognizes Law No. 004 as a significant regulatory development that improves the legal characterization of acts of corruption in the country under review and thereby strengthens their prosecution, investigation, and punishment

3.2.2. New developments with respect to technology

[329] Neither in its reply to the questionnaire nor during the on-site *visit*, did the country under review provide information with regard to any developments of this kind.

3.2.3. Results

[330] In its reply^{154/} to the questionnaire, the country under review presents some information regarding denunciations of cases of corruption referred in 2006-2014 by the MTILCC to the Public Prosecution Service and its Office of the Inspector General, to the Judicial Council, the ALP, and to the Office of the Director General of Police Investigation, and the number of sentences handed down for corruption offenses in the same period

153. See “Report on Implementation in Bolivia of the Convention Provisions Selected for Review in the Second Round, and on Follow-Up to the Recommendations Formulated to That Country in the First Round,” available at: http://www.oas.org/juridico/PDFs/mesicic4_blv_sp.pdf

154. See the reply by the Plurinational State of Bolivia to the questionnaire, p.119, supra note 11.

[331] Likewise, in their remarks during the on-site *visit*, the representatives of the Public Prosecution Service^{155/}, the Judiciary through the Judicial Council^{156/} and the Supreme Court ^{157/}, and the Vice-Minister for Combating Corruption^{158/}, provided abundant information and data, thereby leading the Committee to consider that those institutions have achieved positive results in the performance of their respective functions of prosecution, investigation, punishment, and assistance in judicial proceedings relating to acts of corruption.

[332] An issue brought up during these presentations, which the Committee wishes to highlight, is the fact that since the new Constitution entered into force in 2009, under its Articles 112 and 123, offenses committed by public servants to the detriment of State property, causing serious economic damage, are not precluded under the statute of limitations and are not eligible for immunity and the exception to the principle that the law cannot be imposed retroactively, which, in cases of corruption, makes it possible to investigate, try, and punish offenses committed by public servants against the interests of the State pursuant to Law No. 004.

[333] Likewise, during the on-site *visit*, the Vice-Minister for Combating Corruption mentioned the promulgation of Law No. 586 on Overcoming the Backlog in the Criminal Proceedings System and Making it More Effective^{159/} of October 30, 2014, which led to a series of improvements, including the possibility of the MTILCC intervening actively, fully, and effectively in cases involving corruption and/or related offenses, which, she pointed out, had brought positive results with respect to follow-up to the denunciations filed by this institution.

3.3. Recommendations

[334] In light of the comments made in Sections 3.1 and 3.2 of Chapter II of this report, the Committee did not consider recommendations.

4. GENERAL RECOMMENDATIONS

Recommendation 4.1

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

Recommendation 4.2 suggested by the Committee, which requires further attention in the framework of the report from the Third Round:

Select and develop procedures and indicators, when appropriate and where they do not presently exist, to analyze the results of the systems, standards, measures and mechanisms considered in this report, and to follow-up on the recommendations made herein.

155. See the presentation by the Public Prosecution Service during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

156. See the presentation by the Judicial Council during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

157. See the presentation by the Supreme Court of Justice (TSJ) during the on-site visit, available at:

158. See the presentation by the MTILCC during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

159. Available at: http://www.gacetaoficialdebolivia.gob.bo/index.php/normas/verGratis_gob2/152809

[336] The country under review did not refer, either in its response to the questionnaire or during the on-site visit, to any concrete steps to implement the above recommendation.

[337] However, bearing in mind that sections 1, 2, and 3 of Chapter II of this report contain an up-to-date, detailed analysis both of the follow-up on the recommendations made to the Plurinational State of Bolivia in the Second Round and of the systems, standards, measures, and mechanisms to which the above recommendation refers, the Committee, reaffirms the contents of those sections and, therefore, considers that this recommendation is redundant.

III. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE FIFTH ROUND

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

[338] In keeping with the *Methodology* agreed upon by the Committee for its analysis of the provision selected for the Fifth Round, which is contained in Article III (3) of the Convention and concerns measures to create, maintain, and strengthen “*instruction to government personnel to ensure the proper understanding of their responsibilities and the ethical rules governing their activities,*” the country under review chose the Ministry of Economy and Public Finance (MEFP), the State School for Judges (EJE) and the Office of the Comptroller General (CGE) because it considers their institutional and normative developments to be relevant and representative overall of the Plurinational State of Bolivia’s entities and institutions.

[339] What follows is a brief description of the three government entities selected by the Plurinational State of Bolivia that will be analyzed in this section.

[340] – The MEFP, in the framework of the EFP and Law SAFCO, is the area of the executive branch that supervises the Personnel Administration System (SAP), the area responsible for individual annual operational plans, the purpose of which is to establish and define the objectives of each post and its awaited performance results based on the NB-SAP and other regulatory provisions. Each public sector entity of the executive branch is responsible for implementing and seeing to compliance with the POAI for each year.

[341] – The EJE, based on Article 2 of its General Regulations,¹⁶⁰ is the specialist, decentralized academic entity of the judicial branch under the aegis of the Supreme Court of Justice (TSJ). Its object is to offer training and specialist instruction to persons seeking to join the judicial career path, and to provide general training for judicial civil servants, with the aim of contributing to their task of dispensing justice, promptly, soundly, effectively, and efficiently.

[342] – The CGE is responsible, through its Training Center (CENCAP), for providing ongoing training to civil servants of government organs on the standards and provisions of the governmental administration and oversight systems that govern the organization and workings of public-sector entities that come under the SAFCO Law.

160. Available at: https://www.eje.gob.bo/wp-content/uploads/2014/03/Reglamento_EJE.pdf

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

[343] The Plurinational State of Bolivia has a set of provisions and/or measures on instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, notable among which are the following:

- Constitutional, legal and other provisions applicable to most government personnel, including, in particular:

[344] – The Constitution, under Article 8 of which, the State adopts and promotes as ethical and moral mores of its pluralistic society the principles *ama qhilla* (do not be lazy), *ama llulla* (do not lie) and *ama suwa* (do not steal), among others. In that regard, according to Article 232 the public administration is guided by the principles of legitimacy, legality, impartiality, openness, social commitment and the social interest, ethics, transparency, equality, competition, efficiency, quality, human warmth, honesty, responsibility, and the achievement of results. In addition, Article 235 of the Constitution states that public servants have the obligation to comply with the Constitution and the laws; fulfill his or her responsibilities, in accordance with the principles that guide public administration; provide reports on the economic, political, technical and administrative responsibilities carried out in the public administration; and respect and protect the assets of the country, and abstain from using them for electoral purposes or any other purpose outside of the public function.

[345] In addition, articles 8, 25, and 34 of the EFP provide that public servants have the duty in the performance of their official functions to obey and comply with the law, and exercise their official administrative functions, powers, and duties with punctuality, promptness, economy, efficiency, and probity; that they are subject to induction processes at the time of admission or promotion, in the interests of an effective, efficient, and convenient adaptation to and pursuit of the civil service administrative career path; and that they will be entitled to permanent training through programs for the purposes of specialization, development, and improvement of their functions and roles as well as their personal, professional, and administrative development.

- Statutory and other legal provisions or measures applicable to MEFP personnel, including, in particular:

[346] The MEFP is governed, *inter alia*, by provisions contained in the SAFCO Law, which, as is mentioned in earlier sections, establishes the SAP in order to strive for efficiency in the civil service, introduced regimes governing evaluation of and compensation for work, and develop the abilities and aptitudes of civil servants, among others. In addition, in accordance with SD No. 29894, the MEFP, through the DGNGP functions as the governing body of the System, in its capacity as the technical body responsible for designing and developing the new plurinational public administration model, which includes, among other functions, its management.

[347] In that regard, SD No. 26115, which approves the NB-SAP, establishes in its Chapter V the Productive Training Subsystem of the SAP as a set of processes by which civil servants acquire new knowledge, develop abilities, and modify attitudes with the aim of constantly improving their performance and the results of the organization for the purposes of an efficient and effective provision of services to the public. This subsystem, the objectives of which are to improve the contribution of civil servants to achieving the aims of the entity and to contribute to their personal development and prepare them for promotion in the administrative career, covers the processes of (a)

identification of training needs, (b) programming, (c) execution, and (d) evaluation of training and its results, which are described in articles 33 to 41 of SD No. 26115.

[348] Article 17 of the above SD states that civil servants have their objectives, functions, and results set annually by the personnel planning and administration instrument contained in their POAI. The POAI is adjusted annually and is part of each public-sector entity's positions manual in accordance with Article 21 and other applicable provisions of the EFP.

[349] The POAI has three parts. The first identifies the characteristics of the post, its object, and standards compliance; the second sets out the functions and expected results of the position; the third includes the required profile for the position.

[350] Article 19 of the NB-SAP covers the induction or integration process for new personnel of public-sector entities, which is promoted by the Human Resources Unit of the MEFP and implemented by the employee's supervisor in order formally to acquaint the new or transferred employee with the post.

[351] It should be noted that according to Article 14 of the NB-SAP, the participation of civil servants in training programs is mandatory. However, based on the same SD, the individual training requirements formulated by each entity in their training program are obligatory for career civil servants.

[352] According to the reply of the country under review to the questionnaire, the MEFP prepares the annual institutional training programs, which include induction programs as a general course for all newly joined civil servants that address institutional, technical, and legal aspects, as well as covering transparency and corruption risks.

[353] As regards the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, during the on-site visit, MEFP representatives mentioned the use of its website,^{161/} the POAI intranet which all civil servants have a duty to use in order to familiarize themselves with and inform themselves about functions and responsibilities, and streaming videos that are accessible for all civil servants.

[354] As regards the way in which personnel are apprised of the ethical standards that govern their activities, the country under review mentioned in its response that the MEFP, through the Human Resources Unit, reformulated the Internal Staff Rules, incorporating the above-mentioned constitutional principles and disseminating them to all its personnel via their agency e-mail addresses. The Rules are presented to all civil servants upon joining the entity. The MEFP has also held awareness-raising workshops with the theme "*Building Our Values and Principles to Live Well*" for all the Ministry's organizational units as well as all the persons responsible at the entities under its aegis or that report to it, encompassing 500 civil servants overall.

[355] By the same token, in order to strengthen public ethics, the MEFP approved Ministry Resolutions Nos. 250 and 579 on the procedure for presenting and processing complaints of acts that violate probity (mistreatment, negligence, abuse of authority, nepotism, etc.) at the Ministry. In addition, the MEFP launched an awareness-raising process for all its own staff and those of the entities under its aegis or that report to it, regarding the Political Manifesto "*Decolonizing Public*

161. See the presentation by the Public Prosecution Service during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

Ethics and the Conduct Revolution for Civil Servants of the Plurinational State” by means of training days on “*The New Role of the Civil Servant and the Live Well Philosophy*,” with the aim of encouraging reflection and debate among the personnel of the MEFP and the other entities mentioned.

[356] Furthermore, in coordination with the Plurinational Public Administration School (EGPP) a tele-education program entitled “*The New Civil Servant of the Plurinational State. Building a Collective Public Service Consciousness – Serve Well to Live Well*” was implemented,^{162/} comprising the following modules: (i) Political Constitution of the State, (ii) Transparency in Public Administration, (iii) Decolonizing the State, (iv) The Live-Well Paradigm, and (v) The New Role of the Public Servant. The objective is to introduce the conceptual principles of the new plurinational state to civil servants and encourage debate among them in that regard. During the on-site visit, representatives of the EGPP delivered a presentation on its nature and functions.^{163/}

[357] As regards the existence of bodies to which personnel can turn to obtain information or dispel doubts about the scope or correct interpretation of the ethical rules that govern their activities, in accordance with Article 125 of SD No. 29894 transparency units were set up in all executive branch ministries, among other reasons, to foster ethics in the civil service. Thus, the MEFP Transparency Unit is the body responsible for providing that information.

[358] As regards the existence of a governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or steps such bodies can adopt to enforce the norms and/or measures in force in this regard, SD No. 29894 created the MTILCC, whose functions include “to promote development of public ethics in all public-sector entities, both at the central level of the country and in autonomous territorial entities.”

[359] Accordingly, the MTILCC devised the National Policy on Transparency and the Fight against Corruption,^{164/} which was approved by SD No. 214 of July 2009,^{165/} whose second plank, titled “Strengthening Transparency in Public Administration and the Right of Access to Information,” establishes the policy of “promoting probity and ethics in public affairs” through the “implementation of a Civil Servant Training Plan on Public Ethics and Probity,” which instructs civil servants on assuming responsibility for the ethical and legal implications of their actions vis-à-vis domestic law, international treaties, and comparative experience. In addition, parameters and guidance will be formulated regarding the moral rules and principles that civil servants should observe in the performance of their official duties.

162. According to SD No. 212 of July 2009, the EGPP is a decentralized entity whose function is to help build and consolidate the new public administration by educating and training civil servants for the various levels of government July 2009 (Central, departmental, municipal, and rural indigenous aboriginal entities). To that end, it develops training programs, plans, courses, diplomas, seminars, and workshops on public administration topics for civil servants at public-sector entities. The EGPP has three spheres of instruction: (a) specialized postgraduate programs in different areas of public administration (diploma courses, masters, and doctorates); (b) specialized ongoing training and education programs in different areas of public administration (courses, workshops, seminars, etc.); (c) skills education, training, and certification programs for authorities and leaders of rural indigenous aboriginal entities. Likewise, under SD No. 212 the delivery formats of its educational programs are on-site, semi-on-site, virtual, and itinerant.

163. See the presentation by the EGPP during the on-site visit, available at:

http://www.oas.org/juridico/spanish/mesicic5_blv.htm

164. Available at: http://www.transparencia.gob.bo/data/marco_legal/ds/ds214.pdf

165. Available at: http://www.planificacion.gob.bo/sites/folders/normativa/decreto_supremo_214.pdf

[360] The MTILCC also adopted the Manifesto on “*Decolonizing Public Ethics and the Revolution for Civil Servants of the Plurinational State*” in April 2011, which promotes time-honored ethical and moral principles and declares outright war on corruption, with public ethics adopted by public servants as a philosophy for life. In conjunction with the MTEPS, it also adopted Biministerial Resolution No. 01/2012 of August 22, 2012 which adopts the “Plurinational Policy on Decolonization of Public Ethics and the Revolution in the Conduct of Civil Servants.”

[361] In addition, during the on-site visit, the Vice Minister for Prevention of Corruption, Promotion of Ethics, and Transparency said that through the Corruption Prevention and Ethics Promotion Unit of that vice ministry, the country under review was working on the Plurinational Plan on Public Ethics “Serve well to Live well,”¹⁶⁶ which will include plans and programs for implementing the policy's guidelines.

[362] Finally, it is also worth pointing out that the MTILCC is developing the Program on Transparency in Public Administration and Fight against Corruption,¹⁶⁷ the overarching objective of which is to help achieve the goals of the National Development Plan and the Bolivia Country Strategy (EPBO) through measures implemented within the executive branch sphere to lower impunity for corruption, augment societal oversight and accountability, and increase civil servants' and citizens' intolerance of corruption.

[363] In that context, the MTILCC, through the Bolivian Institute for Studies on Transparency in the Fight against Corruption (IBEC) completed the design of the Training Strategy on Ethics, Transparency, and Fight against Corruption for Social Actors and Public Servants, which is now being implemented. The principles and guidelines underpinning the strategy can be summarized as follows: Human rights, social dialogue, transparent public administration, participatory public administration, civil servants promoting transparency in public administration, and civil servants promoting the fight against corruption.

- Statutory and other legal provisions or measures applicable to EJE personnel, including, in particular:

[364] According to Article 54 of the Internal Staff Rules of the EJE,¹⁶⁸ all civil servants at that entity are entitled, *inter alia*, to access to training and technical or professional improvement courses in the areas where they perform their activities, and to receive ongoing training, as EJE personnel, for the purpose of effectively and efficiently discharging their official public administration duties. In the latter regard, Article 69 provides that the EJE has the obligation to provide and/or enable that training and annually to consolidate, based on the operational plan of each unit of the EJE, a specific budget item for providing training to all its civil servants. Article 63 of the Rules sets out the obligation for all civil servants to attend the training or instruction courses for which they are designated.

[365] Chapter V of the Specific Regulations of the SAP established at articles 25 to 30 the Productive Training Subsystem of the EJE, which,¹⁶⁹ as noted above, governs the processes of training needs identification, programming, execution, and evaluation of training and its results.

166. Available at: <http://www.transparencia.gob.bo/data/viceministerio/prevension/plan-etica.pdf>

167. See http://www.oas.org/juridico/spanish/mesicic3_blv_guia_trans.doc

168. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_esc_jue_reg_int_per.pdf

169. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_esc_jue_reg_esp_sis_adm_per.pdf

[366] As regards mechanisms for apprising EJE personnel of their responsibilities and official functions, Article 15 of the Specific Regulations of the SAP covers the induction or integration process and identifies the POAI given to newly joined civil servants as the information mechanism for the duration of their induction, in addition to the staff responsible for that process.

[367] In addition, based on the response of the country under review to the questionnaire, the EJE is relying on the support of other public-sector institutions, such as CENCAP and the EGPP, to provide induction and training courses to its personnel.

[368] As regards the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the EJE's training unit has a virtual platform to impart online training courses and programs.

[369] With respect to bodies to which personnel can turn for information or dispel doubts about how to perform their responsibilities and functions properly, according to the EJE structure, the bodies from which civil servants can obtain information are, first, the heads of, or persons responsible for, the units where they serve and, second, the Office of the Director General of the EJE.

[370] As regards the existence of a governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed about their responsibilities and functions, and for seeing that this task is fully carried out, and the measures or steps such bodies can adopt to enforce the norms and/or measures in force in this regard, the EJE, created by Law No. 025, as an academic entity, has duly drawn up the Specific Regulations required of it under the SAFCO Law. Accordingly, the MEFP is also the governing body in that regard for the EJE.

[371] As to the way in which the EJE appraises its personnel of the ethical rules that govern their activities, articles 6 and 7 of the Code of Ethics of the EJE provide that public servants and line consultants have the obligation to familiarize themselves with,^{170/} adopt, and comply with that code. The EJE Transparency Unit is responsible for giving out information on the institution's code of ethics and is required to supply a copy of it to public servants before they take up their duties and provide an explanation of it during the induction period. In the case of already serving public servants, the Transparency Unit will organize events in order to officially acquaint them with the contents and scope of the Code of Ethics.

[372] Public servants at EJE, for their part, upon occupying a post are required to sign a sworn declaration of adherence, commitment, and compliance with the provisions contained in the code, under liability as civil servants. Already serving public servants are required to sign the sworn declaration of adherence under liability as civil servants, to which end the Transparency Unit will disseminate the Code of Ethics and collect a signed statement of commitment thereto, which will go into the civil servant's personnel file.

- Statutory or other legal provisions or measures applicable to CGE personnel, including, in particular:

[373] According to the response of the country under review to the questionnaire, everyone who joins the CGE as an employee undergoes a verbal induction process given by the National Department of Human Resources and their supervisor, in order to familiarize them with the entity,

170. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_esc_jue_cod_eti.pdf

their co-workers, and the functions and/or tasks that they will perform, in accordance with the procedure envisaged in the NB-SAP.

[374] As with the two preceding entities, the POAI is presented when the civil servant takes up their post, subsequent to its approval and signature by them, their supervisor and their senior manager. It summarizes all the functions, tasks, and other activities to be performed by the civil servant at the CGE.

[375] The aforementioned induction process is entirely governed by the Human Resources Management Rules (N/AR-004) adopted on September 16, 2002 by Resolution CGR-1/148/2002. The National Department of Human Resources also hands over the Internal Staff Rules,^{171/} adopted by Resolution CGE/071/2012 of June 28, 2012, which details the rights and duties of all civil servants employed by the CGE.

[376] Among other things, the Internal Staff Rules establish the manner of entry, induction, and evaluation of CGE personnel. The CGE also has an Organization and Functions Manual (MI/OA-030) approved by Resolution No. CGE/064/2014 of July to 2014, which broadly sets out the organizational and operating structure of the institution. It also has a Positions Manual (MI/AR-045) adopted by Resolution No. CGE/137/2014 of November 24, 2014, which contains the POAI of all CGE civil servants.

[377] In its response to the questionnaire, the country under review mentioned that the above regulatory instruments, like other internal and external oversight instruments of the CGE, are available to all CGE personnel via the virtual platform of the Standards System (SISNOR) approved by Resolution No. CGE/CGE/162/2014 on December 31, 2014.

[378] As to the existence of induction, training, or instruction programs and courses for personnel on the proper performance of their responsibilities and functions, the CGE incorporates the Training Center (CENCAP) in its organizational structure, a body in charge of programming training events in line with the technical requirements of the public administration cycle and the specialization needs of professionals and technicians who perform specific functions in the public administration.

[379] Under Article 55 of the Regulations on the Exercise of the Powers of the Office of the Comptroller General of the Republic approved by SD No. 23215,^{172/} it is incumbent on the CGE to regulate the activities of the CENCAP. Furthermore, Article 8 of the Training Center Regulations (RI/SC-023) approved by Resolution No. CGE/081/2013 of August 23, 2013, states that the object of the CENCAP is to provide training and to strengthen, update, and enhance the specialized skills of CGE civil servants and other actors involved in public administration in order to boost effectiveness, efficiency, transparency, and accountability in the administration of the State's resources.

[380] In that regard, according to the response of the country under review to the questionnaire, the CENCAP annually prepares an academic program of training available in Government Administration and Oversight Systems. That training is provided internally to all CGE personnel and, in general, to all public-sector employees.

171. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_esc_jue_cod_eti.pdf

172. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_ds_no_%2023215_atri_cgr.pdf

[381] In addition, the National Department of Human Resources has an annual training program that addresses the needs detected that are obstructing the accomplishment of the objectives set down in the POA and the POAI based on performance evaluations and other mechanisms developed as the entity evolves. In that way, training events are designed to achieve optimal performance of each civil servant's assigned functions. The CGE Human Resources Unit also offers courses and training focusing on performance of the functions associated with each position such as, for example, courses on criminal liability, on Law No. 004, special audits, and others.

[382] Coupled with the foregoing, during the on-site visit CGE representatives also referred to the objective envisaged in the CENCAP 2013-2017 Institutional Strategic Plan to develop the skills and capacities of CGE personnel for improving public administration, see to it that all civil servants assume full responsibility for their acts by reporting thereon, and that they are able to prevent, identify, and prove misuse of state resources.

[383] As regards the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the CGE has an intranet for the exclusive use of its personnel that provides general basic information for their activities and incorporates, among other things, various internally developed systems, including the above-mentioned SISNOR, which is run by the Office of the Deputy Comptroller General.

[384] Furthermore, during the on-site visit, the CGE said that CENCAP makes effective use of information and communication technologies through the virtual training that it provides. The CGE mentioned that a feature of the virtual courses developed by CENCAP is that they provide supplementary training to civil servants in the systems established in the SAFCO Law, using online educational resources and multimedia materials that meet international virtual education standards.

[385] With respect to the existence of bodies to which personnel can turn for information or to dispel doubts about how to perform their responsibilities or functions properly, they are their supervisor, their senior manager and/or executive, and the National Department of Human Resources. The obligations of the supervisor, senior manager, and/or executive for the area assigned to each newly incorporated civil servant include, *inter alia*, dealing with any doubts or queries that may arise with respect to the assigned functions and responsibilities of the new civil servant. Likewise, the National Department of Human Resources is required to answer queries made on matters under his authority. The Human Resources Administration Standards, Internal Staff Rules, CGE Organization and Functions Manual, and the CGE Positions Manual establish these bodies in accordance with its organizational and operating structure.

[386] As regards the governing organ in the CGE responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of their responsibilities and functions, and for seeing that this task is fully carried out, as noted above, the CGE has its Internal Staff Rules, Organization and Functions Manual, and Positions Manual that establish that the Comptroller General, as the CEO of the institution, is responsible for approving and implementing the various regulatory instruments that govern the CGE.

[387] The National Human Resources Department is charged with implementation, follow-up, oversight of the Internal Staff Rules, establishment of staffing policies and criteria, personnel mobility, performance evaluation, training, and other matters in the CGE. The Office of the Deputy Comptroller General is in charge of disseminating the Internal Staff Rules and other internal and external regulatory instruments that govern the workings and activities of CGE personnel with respect to their official duties.

[388] The Offices of the Departmental Managers are responsible for complying, enforcing, and applying the Internal Staff Rules, in addition to supervising training of CGE personnel and other involved actors within their area of authority. Finally, the supervisor of each unit and/or organizational area with personnel at their command is responsible for complying, enforcing, promoting, and applying the Internal Staff Rules and Positions Manual through the POAI, in the framework of the established principles and values.

[389] As to the manner in which CGE personnel are informed of the ethical rules governing their activities, in its response to the questionnaire the country under review reiterated that when a new civil servant enters the CGE or takes up new duties, they undergo a verbal induction process in which they are informed of the functions and tasks that they will be required to carry out in accordance with ethical principles and values. To that end, they are informed of the existence of the regulatory instruments that contain those ethical principles and values and of an Ethics Committee that backs them up.

[390] Those standards are the Code of Ethics Regulations approved by Resolution No. CGR/191/2004 of December 24,^{173/} 2004; the Procedure for “Election of Ethics Committee Members”-approved on October 31,^{174/} 2003; the Procedure for “Workings of the Ethics Committee” approved by Resolution No. CGR/191/2004 of December 24,^{175/} 2004; the “Code of Ethics Rules” approved by Resolution No. CGR-1/125/2002 August 16, 2002; the “Code of Ethics of the Governmental Internal Auditor,”^{176/} and the Annual Declaration of Independence of the Governmental Internal Auditor and Adherence to the Code of Ethics of the Governmental Auditor of the Office of the Comptroller General of the Republic and of Internal Audit Units, approved by Resolution CGR-1/153/2002 of September 20, 2002.^{177/}

[391] As regards the existence of induction, training, and instruction programs and courses for personnel on ethical rules, the National Department of Human Resources of the CGE has an annual training program that addresses ethics, including events on such themes as “Motivation in the Workplace,” “Emotional Intelligence at Work,” and “Leadership, Motivation, and Self-Esteem,” whose contents reflect the ethical and moral principles that guide the civil service.

[392] The bodies and governing organ of the CGE that apprise personnel of the ethical standards that govern their activities, and the technology used to inform them of those standards are the same as the ones on which the CGE relies to acquaint its personnel with their responsibilities and functions.

173. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_cgr_cod_eti.pdf

174. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_CGR_ele_voc_com_eti.pdf

175. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_CGR_fun_com_eti.pdf

176. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_CGR_cod_eti_aud_gub.pdf

177. Available at: http://www.oas.org/juridico/PDFs/mesicic5_bol_res_cgr_1_153_2_dec_anu_ind_adh_cod_eti.pdf

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

[393] Based on its examination of the constitutional, legal and other provisions on measures for providing instruction to government personnel at the three public-sector entities selected by the country under review in order to ensure proper understanding of their responsibilities and the ethical rules governing their activities, the Committee finds that they are relevant for the purposes of the Convention.

[394] However, the Committee believes it timely to make a number of observations in relation thereto:

- With respect to the provisions and measures that apply to MEFP personnel, the Committee notes the following:

[395] The sphere of authority of the MEFP, as the governing body of the SAP, continues chiefly to be governed by the applicable provisions of the SAFCO Law and the EFP. Those instruments, as is mentioned in the preceding sections and was explained during the on-site visit,^{178/} predate the 2009 Constitution and, therefore, the Committee believes it appropriate, given the importance of the issue, for the Country under review to consider continuance and conclusion, as soon as possible, of the processes for updating the legal framework that governs the SAP in line with the provisions and principles set down in the Constitution 2009.

[396] The Committee also notes that another of the functions of the MEFP, which is connected with the topic analyzed in this section, is the preparation of institutional annual training programs, which, according to the information supplied by the country under review in its response to the questionnaire, include induction programs that cover such aspects as transparency and corruption risks, among others. However, as the country under review mentioned, presentations of this sort appear only to be envisaged in induction programs. Therefore, the Committee believes that it would be advisable to consider including training and/or awareness courses, workshops, and seminars on transparency, probity, the fight against corruption, and related topics in each entity's annual training plan and to make attendance mandatory for all personnel at each entity. The foregoing is without prejudice to the activities being carried out in that regard by the MTILCC. (See Recommendation 1.4.1. in Chapter III of this report.)

[397] On a separate matter, the Committee notes the training and instruction efforts being pursued by the MEFP to ensure that both its personnel and that of all other public-sector entities properly understand their responsibilities and the ethical rules governing their activities. However, in the interests of transparency and promoting societal oversight, the Committee notes, based on the information available, the need to more broadly consider disseminating and publicizing those efforts and their results in order to enable civil society and the general public to be informed in that regard. (See Recommendation 1.4.2 in Chapter III of this report.)

178. See presentation by the MEFP during the on-site visit, available at: http://www.oas.org/juridico/spanish/mesicic5_blv.htm

- With respect to the provisions and measures that apply to EJE personnel, the Committee notes the following:

[398] According to the preceding section, the EJE was established, among other purposes, to offer training and specialist instruction to persons seeking to join the judicial career path, and to provide general training for judicial civil servants, with the aim of contributing to their task of dispensing justice promptly, effectively, and efficiently.

[399] However, based on the information gathered during the on-site visit, the infrastructure and financial and human resources that the EJE currently has at its disposal are insufficient to accomplish those purposes fully. The upshot of that insufficiency is that the judicial branch has a mixed intake system; in other words, the EJE can provide training and specialist instruction only to the number of applicants that its limited structural capacity allows, while that all the other applicants go directly into their judicial duties without the training provided by the EJE. The Committee will formulate a recommendation in that regard. (See Recommendation 1.4.3 in Chapter III of this report.)

[400] In that regard, it should be mentioned that the training and specialist instruction that the EJE offers is not mandatory for entry to service in the judicial branch in the country under review and that despite the existence of an initiative that would require all public servants at the judge level to receive training at the EJE, the lack of resources and recurring provisional appointments in the judiciary have prevented that initiative from being implemented. The Committee will make a recommendation in light of the foregoing. (See Recommendation 1.4.4 in Chapter III of this report.)

[401] In addition, based on the information at its disposal, the Committee notes the need for the EJE to consider implementing induction and training courses or programs on ethics for all civil servants, not only in the EJE, but in all the judicial branch, to which end it could harness modern information and communication technologies to impart that training and so facilitate the participation of officials whose jurisdictions are far away from the offices of the EJE and/or the places where the above-suggested courses would be imparted. (See Recommendation 1.4.5 in Chapter III of this report.)

[402] Finally, in the interests of transparency and promoting societal oversight, the Committee notes, based on the information available, the need for the EJE to strengthen dissemination and publicity of its efforts and results in providing training to judicial civil servants and judiciary support staff. (See Recommendation 1.4.6 in Chapter III of this report.)

- With respect to the provisions and measures that apply to CGE personnel, the Committee notes the following:

[403] Regarding the manner in which the CGE acquaints its personnel with their responsibilities and functions, the Committee recognizes the efforts that the institution has been making to update its provisions in that regard, such as its Internal Staff Rules, Organization and Functions Manual, and Positions Manual described in the preceding section, which were adopted in 2014. Moreover, it acknowledges the work that the CGE has been doing, through its Training Center (CENCAP), to support various state institutions with on-site and virtual training courses for civil servants on the standards and provisions of the governmental administration and oversight systems chiefly governed by the SAFCO Law.

[404] Having said that, based on the information at its disposal, the Committee notes that the CGE and CENCAP mainly focus their efforts on technical instruction for public servants, and that there is insufficient promotion of events or other types of activities for public servants to ensure a proper understanding of the ethical rules that govern their activities and, in particular, to make them aware of the inherent corruption risks in the performance of their functions.

[405] In that regard, the Committee believes that it would be beneficial for the country under review to consider, through the CGE, promoting and holding training events to strengthen ethical development of all public servants, taking advantage of CENCAP's infrastructure and technological tools. (See Recommendation 1.4.7. in Chapter III of this report.)

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

[406] In its response to the questionnaire and during the on-site visit, the country under review presented the following results obtained in the application of the provisions and/or measures relating to instruction given to government personnel at the public-sector entities selected in order to ensure proper understanding of their responsibilities, functions and the ethical rules governing their activities.

[407] – In relation to the MEFP and its personnel, more than 1,500 copies of the Internal Staff Rules were printed for the information of civil servants at the Ministry; more than 700 civil servants at the MEFP were given a copy of the Internal Staff Rules upon admission or taking up their duties; more than 600 civil servants were informed about the values and principles set down in the Constitution through awareness campaigns via their MEFP e-mail addresses; around 1,000 civil servants of the MEFP and entities under its aegis or that report to it were informed about the construction of ethical values and principles under the *Live Well* program; more than 385 complaints of violations of public ethics were dealt with, including the issuance of final reports and recommendations; copies of the political manifesto *Decolonizing Public Ethics and the Conduct Revolution for Civil Servants of the Plurinational State of Bolivia* were printed and distributed to over 3,500 civil servants; more than 3,500 civil servants of the MEFP and entities under its aegis all that report to it participated in training days on *The New Role of the Civil Servant*; and more than 3,500 civil servants obtained certificates from the tele-education course *Building a Collective Public Service Consciousness – Serve Well to Live Well*.

[408] In addition, between 2007 and 2014, the MEFP drafted and approved around 700 POAI, while more than 400 civil servants attended the induction course on the performance of their functions upon taking up their public-sector positions over the same period.

[409] – With regard to the EJE and its personnel, between 2012 and September 2015, training was provided to a total of 5,792 judicial civil servants (judges) and a total of 1,398 judiciary support staff (secretaries, notaries, auxiliaries, process officials, lawyers, assistants).

[410] – As for the CGE and its personnel, in 2012,^{179/} CENCAP provided training to a total of 32,266 civil servants at 1,226 events concerning different areas of knowledge on personnel administration systems.

179. See Report of the Comptroller General of the State, 2012, available at: <http://goo.gl/aJhbrR>

[411] In 2013,^{180/} in order to promote its human resources, the CGE held 38 training events which drew 899 participants from head office and the departmental offices. It also arranged for 72 civil servants to attend virtual courses offered by OLACEFS, and another 126 to take advantage of virtual courses made available by CENCAP. In addition, the same document reports that in 2013, CENCAP implemented a total of 598 training events for civil servants in public-sector entities, which were attended by a total of 15,993 civil servants.

[412] In 2014,^{181/} the National Department of Human Resources staged 32 events at the national level, providing training to 755 participants in courses and seminars held at head office and the departmental offices; in addition 19 civil servants benefited from virtual courses provided by OLACEFS.

[413] For its part, CENCAP held 562 training courses and seminars on the SAFCO Law in which 18,473 civil servants people took part. CENCAP delivered 83 virtual training courses on different topics to 2,564 civil servants in addition to other individuals abroad. The first internal oversight course using the e-learning method was also designed and implemented. Furthermore, in order to ensure the quality of its events, CENCAP designed and updated its training materials. It also designed and implemented a societal oversight awareness campaign that entailed 15 training events on aspects of governmental control, targeting 804 actors.

[414] The Committee considers that the above information is pertinent for demonstrating that the public-sector entities selected by the country under review have obtained results in the application of provisions and/or measures relating to instruction given to government personnel to ensure proper understanding of their responsibilities and functions.

[415] However, the Committee believes that it would be useful to supplement the statistics on the public-sector entities selected by the country under review with data on induction, training, and instruction courses to ensure proper understanding of the ethical rules that guide the activities of their personnel, the periodicity or frequency with which they are imparted, the number of civil servants taking part, the use of technological tools for those purposes, and the activities carried out to determine if the objective of ensuring that those ethical rules are understood has been met. (See Recommendation 1.4.8. in Chapter III of this report.)

[416] Finally, the Committee considers that it would be beneficial for the country under review if the selected and other public-sector entities had handbooks, guidelines, and other instruments for civil servants on the proper discharge of their functions, alert them to the inherent corruption risks in the performance of their duties, and inform them about the scope and interpretation of the ethical rules that govern their activities and the consequences of their infringement for the civil service and for violators. (See Recommendation 1.4.9. in Chapter III of this report.)

1.4. Conclusions and recommendations

[417] On the basis of the analysis conducted in foregoing sections, the Committee offers the following conclusions and recommendations with respect to implementation in the country under review of the provisions contained in Article III (3) of the Convention:

180. See Report of the Comptroller General of the State, 2013, available at: <http://goo.gl/O0oxzK>

181. See Report of the Comptroller General of the State, 2014, available at: <http://goo.gl/0xznSV>

[418] **The Plurinational State of Bolivia has considered and adopted measures intended to establish, maintain and strengthen the instructions provided to government personnel by the bodies selected that ensure proper understanding of their responsibilities and the ethical rules governing their activities, as described in Chapter III, Section 1 of this report.**

[419] 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 necessary measures to ensure the inclusion in public-sector entities' annual training programs of mandatory courses, workshops and seminars to raise the awareness of their personnel about the inherent corruption risks in the performance of their functions. (See paragraph 396 in Chapter III, Section 1.2 of this report.)
- 1.4.2. Publish on the MEFP website and on any other media considered advisable information about the training and instruction efforts and programs being pursued by the MEFP to ensure that both its personnel and that of all other public-sector entities properly understand their responsibilities and the ethical rules governing their activities. (See paragraph 397 in Chapter III, Section 1.2 of this report.)
- 1.4.3. Provides the EJE with the human and financial resources that it needs to carry out its functions properly and achieve its objectives, particularly with respect to training and specialist instruction for persons seeking to join the judicial career path, and general training for judicial civil servants and judiciary support staff. (See paragraph 399 in Chapter III, Section 1.2 of this report.)
- 1.4.4. Adopt, where appropriate, the necessary measures to make it a mandatory requirement for admission to the judiciary to attend and pass the training and specialist instruction programs provided by the EJE. (See paragraph 400 in Chapter III, Section 1.2 of this report.)
- 1.4.5. See that the EJE implements induction and training courses or programs on ethics for all civil servants in the judicial branch on the ethical rules that govern their activities, in particular, to alert them to the inherent corruption risks in the performance of their functions, to which end it could harness modern information and communication technologies to facilitate the participation of officials whose jurisdictions are far away from the offices of the EJE and/or the places where the above-suggested courses would be imparted. (See paragraph 401 in Chapter III, Section 1.2 of this report.)
- 1.4.6. Publish on the EJE website and on any other media considered advisable information on the work of the EJE to provide training to judicial civil servants and judiciary support staff and its results in that regard. (See paragraph 402 in Chapter III, Section 1.2 of this report.)
- 1.4.7. Promote and hold training events to strengthen the ethical and moral development of all public servants, taking advantage of CENCAP's infrastructure and technological tools. (See paragraph 405 in Chapter III, Section 1.2 of this report.)

1.4.8. Supplement the statistics on the MEFP, EJE, and CGE with data on induction, training, and instruction courses to ensure proper understanding of the ethical rules that guide the activities of their personnel, the periodicity or frequency with which they are imparted, the number of civil servants taking part, the use of technological tools for those purposes, and the activities carried out to determine if the objective of ensuring that those ethical rules are understood has been met. (See paragraph 415 in Chapter III, Section 3 of this report.)

1.4.9. Prepare handbooks, guidelines, and other instruments for civil servants on the proper discharge of their functions, the inherent corruption risks in the performance of their duties, and the scope and interpretation of the ethical rules that govern their activities and the consequences of their infringement for the civil service and for violators. (See paragraph 416 in Chapter III, Section 1.3 of this report.)

2. STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE (ARTICLE 11, PARAGRAPH 12 OF THE CONVENTION)

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

[420] In its response to the questionnaire,^{182/} the country under review said that “*following the respective evaluations and studies, it has adopted a salary policy for civil servants at Bolivian public-sector entities that combines the criteria of equitable compensation and satisfactory performance of functions. In addition, “bearing in mind civil servants’ functions and assigned responsibilities, as well as the real financial possibilities of the Treasury, Supreme Decree 1186 of April 9, 2012, was adopted, implementing the Master Salary Scale in the ministries of the executive branch, taking into account criteria with regard to post, responsibility, functions, performance, quality, and human warmth Continuing with the same policy, work is currently underway on a technical study with a view to implementing a new Master Salary Scale for all decentralized and self-sufficient entities of the executive branch of the Bolivian state.”*

2.2. ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT GUIDELINES FOR DETERMINING CIVIL SERVANT REMUNERATION

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

[421] The Plurinational State of Bolivia has a set of provisions on establishing objective and transparent guidelines for determining civil servant remunerations, in particular:

[422] – The Constitution, Article 46 of which provides that everyone has the right to dignified work with a fair, equitable and satisfactory remuneration or salary that assures a dignified existence for them and their family. For its part, Article 49 states that the law will govern labor relations related to contracts and collective agreements; general sector minimum wages and salary increases and other social rights.

182. See response of the Plurinational State of Bolivia to the questionnaire, pp. 35 and 36, *supra* note 11.

[423] – SD No. 29894, Article 52(j) of which empowers the MEFP to set the public-sector pay policy.

[424] – SD No. 1186 of April 9,^{183/} 2012, which approves the Master Salary Scale (ESM) at the ministries of the executive branch as part of the public-sector salary policy, whose application does not include decentralized entities and those under the aegis of the State.^{184/}

[425] Pursuant to Article 2 of SD No. 1186, the ESM, as a salary policy instrument envisages salary increase adjustments in order to harmonize the salary structures across the ministries of the executive branch and, in order to apply them, those ministries are required to perform an internal evaluation of their civil servants, taking into account the post, responsibility, functions, performance, quality, and human warmth.

[426] Article 5 of that Supreme Decree, which excludes from its application health sector professionals and workers, the National Health Laboratory Institute, the National Occupational Health Institute, medical schools, teaching and administrative staff of the public education system, members of the Armed Forces, and the Bolivian Police.

[427] It should be noted that since 2006,^{185/} the country under review has reduced the parity gap in public-sector wages between the lowest and highest pay grades in order to have a more even and equitable salary curve. It has also capped public-sector wages, so that no civil servant, with the exception of specialized staff in technical areas of strategic national state-owned enterprises, may earn more than the President of the country.

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

[428] With respect to the provisions on the establishment of objective and transparent guidelines for determining civil servant remunerations, the Committee notes that, on the basis of the information available to it, they are pertinent for the purposes of the Convention.

[429] Having said that, the Committee believes that it would be advisable for the country under review to consider promoting, through the appropriate authority, inclusion of criteria, such as those contained in SD No. 1186, for determining the compensation of public servants within the offices and entities that are part of the legislative and judicial branches, as well as for the decentralized and self-sufficient entities of the executive branch currently excluded from the ESM. (See recommendation in Chapter III, Section 2.2.3 of this report.)

2.2.3. Conclusions and recommendation

[430] On the basis of the analysis conducted in foregoing sections, the Committee offers the following conclusions and recommendation with respect to implementation in the country under review of the provisions contained in Article III (12) of the Convention:

183. Available at: http://www.gacetaoficialdebolivia.gob.bo/index.php/normas/verGratis_gob2/139818

184. The ESM adjustments for 2013, 2014, and 2015, were approved by SD Nos. 1573, 1989 and 2347, respectively.

185. See response of the Plurinational State of Bolivia to the questionnaire, pp. 36 and 37, note 11 above.

[431] **The Plurinational State of Bolivia has considered and adopted measures intended to establish objective and transparent criteria for determining compensation of public servants, as described in Chapter III, Section 2 of this report.**

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

- Promote, through the appropriate authority, inclusion of objective criteria to determine compensation of public servants within offices and entities included in the legislative and judicial branches, as well as for the decentralized and self-sufficient entities of the executive branch. (See paragraph 429 in Chapter III, Section 2.2.2 of this report.)

IV. BEST PRACTICES

[433] In keeping with section VI of the Methodology for follow-up of implementation of the recommendations formulated and provisions reviewed in the Second Round and for the review of the provisions of the Convention selected for the Fifth Round, the following describes the best 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:

- In relation to Article III(5) of the Convention:

[434] – **Public opening of bidding in procurement processes for goods and services in the Municipality of Vinto:** An initiative of the autonomous municipal government in which bids in goods and services procurement processes are publicly opened in the municipality's main square in the presence of the grading committee,^{186/} bidders, a societal oversight representative, the person responsible from the Transparency Unit, and any members of the public who wish to attend.

[435] It is considered a best practice because it has allowed societal oversight of government procurement processes and meant that they are transparent, thereby strengthening the administration of goods and services procurement by the autonomous municipal government.

[436] – **“Mi Plataforma”** [My Platform]: A technological tool implemented by the MTILCC that centralizes,^{187/} manages, and publishes information on strategic projects and/or services of the country. Its purpose is to facilitate societal oversight of the public administration through access to information.

[437] It is regarded as a best practice because it strengthens exercise of the constitutional right of access to public information; it involves the public through societal oversight of the public administration, in particular with regard to strategic projects and national services; it provides information to alternative media outlets in areas without Internet access, such as community radios; and does not require financial investment in technological support by the entities involved in the project.

186. See the standard form accompanying the response of Bolivia to the questionnaire, pp. 40-42, supra note 11.

187. See the standard form accompanying the response of Bolivia to the questionnaire, pp. 42-46, supra note 11.

[438] – **Diagnostic assessment of areas at risk for corruption at the municipal level:** A review carried out by the MTILCC to prepare and disclose risk maps for the entities evaluated based on qualitative and quantitative instruments that measure the perception of corruption from an external perspective.^{188/}

[439] It is considered a best practice because, based on the results obtained (maps of potential risks), it offers public-sector entities the option of exclusively designing the necessary mechanisms to minimize its risks. At present, the results are being shared and will allow the municipalities involved to draw up a Municipal Transparency Policy. So far, a Comprehensive Risk Analysis Guide has been developed for an entity and its procurement processes that is being readied for implementation.

- In relation to Article III(12) of the Convention:

[440] – **Executive Branch Ministries Master Salary Scale:** Described in the preceding section,^{189/} the Scale was implemented by the MEFP as a salary policy instrument for adjusting salaries and establishing levels, categories, descriptions, and basic pay in a bid to harmonize the salary and positions structure in executive branch ministries.

[441] It is considered a best practice because it has standardized and homogenized salary levels in all executive branch ministries; reduced pay disparities among ministries for the same positions; re-classified positions in accordance with internal personnel evaluations in line with each institution's objectives; updated payrolls in order to have precise information and systematized that information to avoid subjectivity in case analyses under different scenarios; and created a database, among other aspects.

188. See the standard form accompanying the response of Bolivia to the questionnaire, pp. 46-49, supra note 11.

189. See the standard form accompanying the response of Bolivia to the questionnaire, pp. 38-40, supra note 11.

ANNEX

AGENDA
FOR THE ON-SITE VISIT
TO THE PLURINATIONAL STATE OF BOLIVIA

<u>Wednesday, October 14, 2015</u>	
13:00 hrs. – 13:30 hrs. <i>Ritz Apart Hotel</i>	Coordination meeting of the representatives of the member states of the Subgroup and the Technical Secretariat.
13:30 hrs. – 14:00 hrs. <i>Ritz Apart Hotel</i>	Coordination meeting of representatives of the country under review, the member states of the subgroup, and the Technical Secretariat
14:15 hrs. – 14:45 hrs. <i>Ministry of Foreign Affairs Headquarters</i>	Greeting by the Minister for Institutional Transparency and Fight against Corruption, Lenny Valdivia.
14:45 hrs. – 17:30 hrs. <i>Ministry of Foreign Affairs Headquarters</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics or researchers.
	<p>Topics:</p> <ul style="list-style-type: none"> • Systems of government hiring, training and remuneration • Systems of government procurement of goods and services • Protection systems for those who report acts of corruption <p><u>Participants:</u> <i>Confederation of Women of Bolivia “Juana Azurduy de Padilla”.</i> - Maxima Apaza, Executive Secretary. - Beatriz Lumbre. <i>Federation of Petroleum Workers of Bolivia.</i> Hugo González. <i>Bolivian College of Accountants.</i> - Jaime Pacheco Quisbert. <i>National Confederation of Micro and Small Enterprises of Bolivia.</i> <i>Confederation of Private Businesspersons of Bolivia.</i> - Bernarda Flores Ivanovic. <i>Academic.</i> - Reynaldo Irigoyen.</p>
17:30 hrs. – 18:30 hrs.	Informal Meeting of the representatives of the member states of the Subgroup and the Technical Secretariat.
<u>Thursday, October 15, 2015</u>	
09:00 hrs. – 17:30 hrs. <i>Ministry of Foreign Affairs Headquarters</i>	Meetings with public officials on systems of government hiring, training, and remuneration
09:00 hrs. – 13:00 hrs.	<u>Panel 1:</u>

	<ul style="list-style-type: none"> • Follow-up on the recommendations from the Second Round regarding systems of government hiring. <ul style="list-style-type: none"> - Progress, new developments and results in implementing the recommendations pending - Difficulties observed in implementation processes - Technical cooperation needs and best practices <p><u>Participants:</u> <i>Ministry of Economy and Public Finance.</i> - Magaly Churrurrain Saavedra, Director General, Bureau of Programming and Budget Management. - Katherine Hinojosa Virreira, Chief, Bureau of Governance Standards. <i>Ministry of Labor, Employment and Social Security.</i> Reynaldo Irigoyen, Director General, Civil Service Department. <i>The Senate.</i> - Sergio Gamarra Valenzuela, Director, Department of Human Resources. - Roberto Rengifo, Director General, Office of Administrative Affairs. <i>House of Representatives.</i> - Hugo Lopez Salazar. <i>Council of the Magistracy.</i> - Wilma Mamani Cruz, Counselor. - Jenny Ibáñez Sierra, National Chief, Transparency Unit. <i>Administrative and Financial Department of the Judicial branch.</i> - Angel Limpías, National Chief, Human Resources Department. - Franklin Soliz Medrano, Legal Administrative Assistant. - Juan Pablo Ortiz. <i>Ministry for Institutional Transparency and Fight against Corruption.</i> - Javier Hinojosa, Director General, Department for Legal Affairs. <i>Public Prosecution Service (Ministerio Público)</i> - José Manuel Gutierrez Velasquez, Senior Prosecutor.</p>
12:30 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 15:45 hrs.	<p>Panel 2:</p> <ul style="list-style-type: none"> • Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities <ul style="list-style-type: none"> - Legal framework, programs, competent bodies, and technology use - Results - Difficulties and technical cooperation needs <p><u>Participants:</u> <i>Plurinational School of Public Management.</i> - Debbie Morales, Chief, Research and Development Unit. <i>Ministry of Economy and Public Finance.</i> - Magaly Churrurrain Saavedra, Director General, Bureau of Programming</p>

	<p>and Budget Management.</p> <ul style="list-style-type: none"> - Katherine Hinojosa Virreira, Chief, Bureau of Governance Standards. - Yeshika Crespo, Chief, Transparency Unit. <p><i>Ministry of Labor, Employment and Social Security</i></p> <ul style="list-style-type: none"> - Reynaldo Irigoyen, Director General, Civil Service Department. - Elizabeth Molina, Chief, Legal Analysis Unit <p><i>Ministry for Institutional Transparency and Fight against Corruption.</i></p> <ul style="list-style-type: none"> - Walter Herrera Céspedes, Vice-Minister of Prevention, Promotion of Ethics and Transparency. - Javier Hinojosa, Director General, Department for Legal Affairs. <p><i>Office of the Comptroller General of the State</i></p> <ul style="list-style-type: none"> - Julio Guerra, Normativity Manager. - Mayra Ortega, Staff. <p><i>State Judicial College.</i></p> <ul style="list-style-type: none"> - Darwin Vargas Vargas, Chamber Counsel. - Vania Peredo, Chief, Transparency Unit.
16:00 hrs. – 17:30 hrs.	<p>Panel 3:</p> <ul style="list-style-type: none"> • Study of prevention measures that give due consideration to the relationship between equitable remuneration and probity in public service <ul style="list-style-type: none"> - Study or studies carried out - Objective and transparent guidelines for determining civil servant remunerations <p><u>Participants:</u></p> <p><i>Ministry of Economy and Public Finance.</i></p> <ul style="list-style-type: none"> - Magaly Churrurrain Saavedra, Director General, Bureau of Programming and Budget Management. - Katherine Hinojosa Virreira, Chief, Bureau of Governance Standards. - Yeshika Crespo, Chief, Transparency Unit.
17:30 hrs. – 18:30 hrs.	<p>Informal meeting of the representatives of the member states of the subgroup and the Technical Secretariat</p>
<p><u>Friday, October 16, 2015</u></p>	
09:00 hrs. – 13:00 hrs. <i>Ministry of Foreign Affairs Headquarters</i>	<p>Meetings with public officials on systems of government procurement of goods and services</p>
	<p>Panel 4:</p> <ul style="list-style-type: none"> • Follow-up on recommendations from the second round regarding systems of government procurement of goods and services <ul style="list-style-type: none"> - Progress, new developments and results in implementing the recommendations pending - Difficulties observed in implementation processes - Technical cooperation needs

	<p><u>Participants:</u> <i>Ministry of Economy and Public Finance.</i> - Magaly Churrurrain Saavedra, Director General, Bureau of Programming and Budget Management. - Katherine Hinojosa Virreira, Chief, Bureau of Governance Standards. - Yeshika Crespo, Chief, Transparency Unit. <i>Ministry for Institutional Transparency and Fight against Corruption.</i> - Walter Herrera Céspedes, Vice-Minister of Prevention, Promotion of Ethics and Transparency. <i>Office of the Procurator General (Procuraduría General del Estado).</i> - Rosario Mendizábal, Deputy Procurator on Investigations Advice and Regulations. <i>Office of the Comptroller General of the State.</i> - Julio Guerra, Normativity Manager. <i>Administrative and Financial Department of the Judicial branch.</i> - Fernando Soliz, Procurement Manager. - Franklin Soliz Medrano, Legal Administrative Assistant.</p>
13:00 hrs. – 14:00 hrs.	Lunch
14:00 hrs. – 17:30 hrs. <i>Ministry of Foreign Affairs Headquarters</i>	<p>Meetings with public officials on protection systems for those who report acts of corruption and criminalization of such acts</p>
14:00 hrs. – 16:30 hrs.	<p><u>Panel 5:</u></p> <ul style="list-style-type: none"> • Follow-up on recommendations from the second round regarding protection systems for those who report acts of corruption <ul style="list-style-type: none"> - Progress, new developments and results in implementing the recommendations pending - Difficulties observed in implementation processes - Technical cooperation needs and best practices <p><u>Participants:</u> <i>Ministry of the Interior.</i> - Carlos Aparicio, Vice-Minister on Citizen Security. - Elva Terceros, Director General on Legal Affairs. <i>Ministry of Labor, Employment and Social Security.</i> - Julio César Luna, Chief, International Relations Unit. - Elizabeth Molina Chief, Legal Analysis Unit. - Claudia Plata, Chief, Transparency Unit. Cristián Reyes, Transparency Expert. <i>Public Prosecution Service (Ministerio Público)</i> - José Manuel Gutierrez Velasquez, Senior Prosecutor. <i>Ministry for Institutional Transparency and Fight against Corruption.</i> - Jessica Saravia, Vice-Minister of Fight against Corruption.</p>

	<p>- Javier Hinojosa, Director General, Department for Legal Affairs. <i>Council of the Magistracy.</i></p> <p>- Wilma Mamani Cruz, Counselor.</p> <p>- Roger Treviño, Counselor.</p> <p>- Jenny Ibáñez Sierra, National Chief, Transparency Unit. <i>High Court of Justice of the Judicial branch.</i></p> <p>- Darwin Vargas, Counsel, Criminal Court.</p>
16:30 hrs. – 17:30 hrs.	<p>Panel 6:</p> <ul style="list-style-type: none"> • Follow-up on recommendations from the second round regarding criminalization of acts of corruption <ul style="list-style-type: none"> - Progress, new developments and results in implementing the recommendations pending - Difficulties observed in implementation processes <p><u>Participants:</u></p> <p><i>Public Prosecution Service (Ministerio Público)</i></p> <p>José Manuel Gutierrez Velasquez, Senior Prosecutor.</p> <p><i>Ministry for Institutional Transparency and Fight against Corruption.</i></p> <ul style="list-style-type: none"> - Jessica Saravia, Vice-Minister of Fight against Corruption. - Javier Hinojosa, Director General, Department for Legal Affairs. <p><i>Ministry of Justice</i></p> <ul style="list-style-type: none"> - Marcelo Argollo, Staff, Vice-Ministry of Justice and Human Rights. - Adolfo M. Soria, Specialist on Constitutional Law. <p><i>Council of the Magistracy.</i></p> <ul style="list-style-type: none"> - Wilma Mamani Cruz, Counselor. - Roger Treviño, Counselor. - Jenny Ibáñez Sierra, National Chief, Transparency Unit. <p><i>High Court of Justice of the Judicial branch.</i></p> <ul style="list-style-type: none"> - Darwin Vargas, Counsel, Criminal Court.
17:30 hrs. – 18:00 hrs.	<p>Informal meeting between representatives of the member States in the subgroup and the Technical Secretariat.</p>
18:00 hrs. – 18:30 hrs.	<p>Final Meeting of representatives of the country under review, the member states of the subgroup, and the Technical Secretariat.</p>

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

COUNTRY UNDER REVIEW:

BOLIVIA

Lenny Valdivia Bautista

Lead Expert to the Committee of Experts of the MESICIC
Minister of Institutional Transparency and Fight against Corruption

Javier Hinojosa

Director General, Department for Legal Affairs
Minister of Institutional Transparency and Fight against Corruption

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

HONDURAS

Rigoberto Córdova Laitano

Alternate Expert to the Committee of Experts of the MESICIC
Legal Counsel to the Superior Court of the Accounts of the Republic

JAMAICA

Kathy-Ann Brown

Deputy Solicitor General
Ministry of Justice

TECHNICAL SECRETARIAT OF THE MESICIC

Rodrigo Cortés

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