

INTRODUCTION

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

Based on the Introduction, briefly describe the legal-institutional system in your country, in accordance with its constitutional framework (A maximum of 2 pages is suggested)

The hierarchy of El Salvador's legal system is structured as follows:

- The Constitution of the Republic (Con.) is above the entire domestic legal order and has precedence over any other provision in the event of conflict. This concept is reflected in Art. 246 Con., which stipulates that the Constitution shall prevail over all laws and regulations. The public interest has primacy over private interest.
- In second place are international treaties that El Salvador enters into with other States or international agencies. When these treaties take effect they become the law of the Republic, in accordance with the provisions of the treaties and the Constitution (Art. 144 Con.).
- In third place is secondary law. In the event of conflict between secondary law and an international treaty, the latter takes precedence (Art. 144 Con.).
- In fourth place are regulations and executive decrees and municipal ordinances.

El Salvador's legal-institutional system is organized as follows:

Art. 86 Con. establishes that the Branches of Government shall be governed by the Constitution and other laws. The major branches of government are the Executive, Legislative, and the Judicial Branches.

- In accordance with Art. 150 Con., the Executive Branch consists of the President and Vice President of the Republic, the Ministers and Vice Ministers of State, and their subordinates.
- According to Art. 121 Con., the Legislative Branch consists of the Legislative Assembly, a collegiate body made up of deputies whose major function is to enact laws.
- According to Art. 172 et seq. Con., the Judicial Branch consists of the Supreme Court of Justice and other courts and is structured as follows in accordance with the Judicial Organic Law:

Supreme Court of Justice:	Constitutional Chamber	5	magistrates
	Civil Chamber	3	"
	Administrative Chamber	4	"
	Criminal Chamber	3	"

Second Instance Courts (with two magistrates *each*)

Trial Courts (Judges of First Instance)

Peace Courts (Judges of the Peace)

- For better administration of matters of State, the government has been decentralized into: Municipalities (Mayor, Municipal Representative and other Council Members who make up the Municipal Council) and Autonomous Institutions with specific functions such as the administration of ports, social security, generation of electrical energy, etc.
- There are also Independent Oversight Agencies, including the Supreme Electoral Tribunal, the Court of Accounts of the Republic, the General Prosecutor's Office (conducted by the General Prosecutor of the Republic, the Public Defender of the Republic, the Human Rights Ombudsman, and other officials as determined by law, Art. 191 Con.) and the Superintendencies (Pensions, Financial System, Electricity and Telecommunications, etc.)
- Finally, there are state-owned and quasi-state (mixed state/private or municipal/private) companies that are also subject to State control.

II. CONTENT OF THE QUESTIONNAIRE

CHAPTER ONE

MEASURES AND MECHANISMS REGARDING STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE, AND PROPER FULFILLMENT OF PUBLIC FUNCTIONS (ARTICLE III, 1 AND 2 OF THE CONVENTION).

1. General standards of conduct and mechanisms

a. Are there standards of conduct in your country for the correct, honorable and adequate fulfillment of public functions? If so, briefly describe them and list and attach a copy of the related provisions and documents.

Art. 235 Con. states that all public servants are required to strictly comply with laws for the proper conduct of their functions, as well as the duties imposed by their positions. Thus, the Constitution generally provides guidelines governing the conduct of public officials. Subsequently, international treaties duly ratified in accordance with constitutional procedures and secondary laws develop the content of these standards of conduct, among which we should note:

- 1) The Constitution of the Republic, which establishes the general requirements for as well as the limitations on some officials for purposes of their selection, performance, and fulfillment of public functions. For example, Art. 128 prevents representatives in office from being contractors or guarantors of public works, concessionaires or agents of contractors or concessionaires. Arts. 152, 153 and 161 extend the impediments indicated in the aforementioned Art. 128 to the President of the Republic, the Vice President and the Ministers and Vice Ministers of State for the actions they authorize. Art. 188 establishes incompatibility between the role of Magistrate or Judge and practice as an attorney or notary.
- 2) The Law of the Court of Accounts is the State's principle instrument of control for regulating the conduct of public officials. Art. 195 Con. governs the powers of the body charged with supervising the Public Treasury in general and executing the budget in particular. This body has a Code of Ethics of the Court of Accounts of the Republic, which establishes standards to guide the conduct of its officials and employees, as well as principles to strengthen the dominant role of ethical values in the conduct and action of all its employees, without exception. The foregoing is meant to strengthen the human resources of the institution so that they can act transparently in light of this oversight body's commitment to fulfill its constitutional and institutional mission, in the context of growing demands for control coming from society in general and from the public sector in particular. This of course means that confidentiality, solidarity and comradeship must work in the same direction.
- 3) The Law on Procurement and Contracting by the Public Administration is another instrument the State has to govern the conduct of officials. This law generally stipulates that heads of the Procurement Management Units in the various governmental agencies must be of recognized moral character and have no conflicts of interest.
- 4) The Law on Illicit Enrichment of Public Officials and Employees determines which officials shall be covered by the law and establishes a process for preventing illicit enrichment, through statements of assets that officials submit to the Probity Section of the Supreme Court of Justice, as well as the court competent to hear cases of illicit enrichment that have been uncovered. The submission of the statement of assets upon assuming and leaving public office partially guarantees oversight of the assets of those required to submit such statements.

- 5) The specific purpose of the Civil Service Law is to regulate relations between the State and the Municipalities and their officials and employees, to guarantee their protection, to ensure efficiency in public and municipal administration, and to organize the administrative career path, through the selection and promotion of personnel based on merit and qualifications. This law takes into account an official's conduct for purposes of his or her employment security and promotions.
- 6) The essential purpose of the Electoral Code is to regulate the activities of the Electorate, Electoral Bodies, and Political Parties, as well as the activities of the State as they relate to the elections process.
- 7) Title XVI of the Penal Code considers crimes relating to public administration, specifically in Chapter II "On Corruption," which defines the crimes that public officials may commit when they use their positions for their own benefit. The Criminal Code defines crimes of corruption to include embezzlement, misappropriation, extortion, illicit negotiation, exaction, active and passive bribery, illicit enrichment, and dishonesty in record-keeping. A bill is under consideration to amend the Criminal Code to bring it into line with the Inter-American Convention against Corruption (IACAC), including crimes not defined as transnational bribery.
- 8) The Code of Criminal Procedures establishes how a public official is prosecuted for having committed one or more crimes relating to corruption and defined in the Criminal Code.
- 9) The Banking Law contains specific provisions (Art. 33, paragraph j) barring the President and Vice President of the Republic, the Ministers and Vice Ministers of State, Magistrates of the Supreme Court of Justice, Magistrates of Second Instance, and Presidents of Autonomous Institutions from serving as bank directors. Art. 232 of the same law provides exceptions to banking secrecy, stipulating that it "...shall not be an obstacle to clarifying crimes nor for preventing the seizure of goods."
- 10) The Organic Law of the Superintendency of the Financial System establishes (Art. 18) that the Superintendent must be a person of recognized honor and probity, and his spouse and dependent minor children may not borrow from the institutions subject to the Superintendency's oversight.
- 11) Art. 24 of the Law on Non-bank Financial Intermediaries provides that "banking secrecy and confidentiality in taxation matters do not apply to money-laundering offenses."
- 12) The purpose of the Law against Money-Laundering is to prevent, detect, punish, and eradicate the crime of money-laundering as well as its concealment. In this sense, it is applicable to officials and to any other natural person or any entity in which he or she serves, if the activity could lend itself to money-laundering.
- 13) The Code of Civil Procedures defines the grounds for recusal of judges in civil proceedings, i.e., the reasons why judges are barred from hearing civil proceedings whenever they find themselves in situations covered by the grounds established in Article 1152 et seq.
- 14) The Inter-American Convention against Corruption (IACAC) was ratified by the Legislative Assembly through Decree No. 351 of July 9, 1998, signed by the President of the Republic on July 20, 1988, and published in Official Gazette No. 150, Volume 340, dated August 17, 1998. As a treaty ratified by El Salvador, it is part of the country's domestic law.
- 15) The United Nations Convention against Corruption, ratified on May 20, 2004 and published in Official Gazette No. 119, Volume 363, dated June 28, 2004, and thus part of our domestic legal system. It was delivered to the UN on July 1, 2004. It is not yet in effect internationally because it shall take effect 90 days after the date when the thirtieth signatory state has delivered its copy to the United Nations.
- 16) The Agreement on Cooperation against Corruption signed between the governments of El Salvador and the United States of America.
- 17) Another important piece of legislation for preventing, detecting, punishing and eradicating corrupt practices is the Organic Law of the Superintendency of the Financial System. Specifically, Art. 27 of that Law prohibits employees from receiving,

directly or indirectly, any money or other effects as bonuses, gifts, rewards, or in any other way.

18) The Organic Law of the Public Defender's Office of the Republic.

It should be noted that some of the laws described above predate the IACAC, but efforts have been made to adapt them appropriately through bills that seek to modernize them.

b. Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.

The mechanisms for enforcing compliance with these rules of conduct are found in all the laws cited above. It should be noted that these mechanisms can be classified as: a) *ex officio* mechanisms, i.e., mechanisms carried out solely at the initiative of the supervisory agency, as in the case of audits conducted by the Court of Accounts, or investigations conducted by the General Prosecutor's Office; or b) mechanisms whereby the institution acts in response to an accusation, which may come from other agencies of government or from an individual affected by official corruption or misconduct.

1. Despite being the primary source of all legal instruments providing standards of conduct for public officials, the Constitution of the Republic does not have a direct mechanism to punish them. Rather, punishment is imposed through various procedures or agencies under secondary laws implementing the constitutional standards.
2. The mechanism used to implement the Law of the Court of Accounts is a National System for Oversight and Audit of Public Administration. Audits are the basic tool adopted by this system. The Court of Accounts is the lead agency of the system and is responsible for development, regulation, and evaluation of public sector institutions and agencies. The Court of Accounts is responsible for ruling on the legality, efficiency, effectiveness and transparency of management of all public officials, by examining the financial, administrative, and operational activities of the institutions and employees subject to its jurisdiction. After an audit, if there are anomalies, an Accounts Proceeding (*juicio de cuentas*) is filed in the lower court to determine the asset-related responsibilities of the officials, employees and third parties to which the law applies, as well as the administrative responsibilities of the first two (Arts. 21 and 66, Law of the Court of Accounts).
3. The Law on Procurement and Contracting by the Public Administration is a mechanism whose application is preventive because, as its name indicates, it governs the government's contracting activities. Contracting may be conducted through open public bidding, public bidding by invitation, open management, direct contracting, or based on the market. Contract bids received go through a screening process based on parameters established by law; the contract is later awarded and formalized. If the principles established by this law are violated by government or municipal officials or employees designated to carry out contract supervision or acceptance, as well as by those subject to prohibitions on contracting as indicated in the law, they shall answer for any resulting damages and injury. This may extend to removal from office, without prejudice to any criminal or administrative liability incurred, pursuant to Articles 152 to 157 of the law.
4. The Law on Illicit Enrichment of Public Officials and Employees requires public officials to submit a statement of assets to the Probity Section of the Supreme Court of Justice upon assuming and leaving their positions. The Probity Section is responsible for opening a file and imposing sanctions if public officials fail to comply, i.e., when they do not submit the sworn statement at the proper time, pursuant to Article 17 et seq. of the same law.
5. The Civil Service Law establishes two competent bodies: the Civil Service Commissions and the Civil Service Tribunal. Each of the agencies indicated in Art. 7 of the law must have a Civil Service Commission. The Civil Service Tribunal consists of three regular

members and three alternates. The regular members and alternates are appointed -- one by the Legislative Assembly, one by the Executive Branch in session with the Council of Ministers, and one by the Supreme Court of Justice. The first President of the Tribunal is appointed by the Legislative Assembly. Both bodies may impose sanctions, pursuant to Article 41 et seq. of the law, under what is called a Disciplinary Regime.

6. The mechanism for implementing the provisions contained in the Criminal Code consists of proceedings established in the Code of Criminal Procedures. The officials indicated in Art. 236 Con. (President and Vice President of the Republic, Deputies, Appointments to the Office of the President, Ministers and Vice Ministers of State, President and Magistrates of the Supreme Court of Justice and the Courts of Second Instance, President and Magistrates of the Court of Accounts of the Republic, the General Prosecutor of the Republic, Public Defender of the Republic, Human Rights Ombudsman, President and Magistrates of the Supreme Electoral Court and diplomatic representatives) are subject to constitutional jurisdiction and shall answer to the Legislative Assembly for any official and non-official crimes they commit. The Legislative Assembly shall determine whether or not there is justification to initiate a complaint. If it is decided that there are grounds for doing so, the lower Criminal Chamber will hear the case, the Criminal Chamber of the Supreme Court of Justice will hear any second instance appeal, and the full Supreme Court of Justice will hear any final appeal. Other officials who are subject to constitutional jurisdiction are Judges of First Instance, Judges of the Peace, and Departmental Governors. When the Supreme Court of Justice decides there are grounds to initiate a complaint, they may be judged by the regular courts. The regular proceeding begins with an accusation or complaint. This is followed by an investigation and, if there is sufficient evidence, the prosecutor's request [*requerimiento fiscal*] is issued. When the competent court receives this request, it schedules an initial hearing, and continues with the pre-trial investigation, preliminary hearing, and the full trial to reach a judgment. Anyone may make a complaint preliminary to a trial and the General Prosecutor's Office shall be specifically required to bring the corresponding pretrial motion before the Legislative Assembly or the Supreme Court of Justice. Those who are empowered to bring complaints may also file pretrial motions as indicated in Article 381 et seq. of the Code of Criminal Procedures.
7. To implement the prohibition contained in Art. 33 (j) of the Banking Law, which bars from President and Vice President of the Republic, Ministers and Vice Ministers of State and Regular Magistrates of the Supreme Court of Justice, Magistrates of Second Instance, and Presidents of the Autonomous Institutions from being bank directors, the same law establishes a mechanism that requires bank directors within thirty days of assuming their office and again in January of each year to submit a sworn statement to the Superintendency of the Financial System to the effect that they are not disqualified from serving in that capacity. They are also required to report, no later than the next working day, their disqualification for that office, should this occur after they have assumed their position. It is the responsibility of the Superintendency, on its own or at the initiative of an interested party to declare the disqualification and continue the process if necessary.
8. According to the Organic Law of the Superintendency of the Financial System, any violation of the laws overseen by the Superintendency shall generally be sanctioned through fines to be imposed according to the process established in Art. 47.
9. The Law on Non-Bank Financial Intermediaries is an instrument that falls under the jurisdiction of the Superintendency of the Financial System and thus follows the same procedure.
10. To implement the Law against Money-Laundering, there is a Financial Investigation Unit attached to the General Prosecutor's Office. This unit is charged with monitoring the prevention and eradication of the crime of money-laundering. To fulfill its mission, it relies on inter-institutional cooperation from the bodies and institutions of the State, particularly the Ministry of Finance, the Central Reserve Bank, the Real Estate and Mortgage Registry, the Civil National Police, and other government supervisory bodies.

The Law against Money-Laundering applies the standards and procedures contained in the Criminal Code and the Code of Criminal Procedures, as established by Art. 26.

11. The Organic Law of the Superintendency of the Financial System is implemented first through its internal divisions. If a crime is discovered to have been committed, it is the responsibility of the Superintendent to inform the competent authority, which is the General Prosecutor's Office.
12. The Supreme Electoral Tribunal is the highest authority in the area of elections, without prejudice to remedies established in the Constitution. This Tribunal implements the mechanisms established in the Electoral Code, which governs election procedures for the following officials (Art. 2 of the Electoral Code): President and Vice President of the Republic, Deputies to the Central American Parliament, Deputies to the Legislative Assembly, and members of the Municipal Councils. The Code also establishes the composition of authorities as well as the El Salvador's representation at the Central American Parliament (Art. 11), the Municipal Councils (Art. 12) and the Legislative Assembly (Art. 13). The electoral bodies (Art. 54) are the Supreme Electoral Tribunal, the Departmental Electoral Boards, Municipal Electoral Boards, and Vote Acceptance Boards. It is the responsibility of the Supreme Electoral Tribunal to ensure compliance with the Constitution and other laws regarding political and citizen participation, and to call, organize, direct, and monitor the elections process.

c. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

The objective results obtained could be improved upon given that some problems must still be resolved. For example:

1. In general, it can be said that oversight measures and procedures are followed: officials submit their statements and agencies are implementing the respective controls. However, strengthening the verification mechanisms and procedures is considered important.
2. The oversight exercised by the Supreme Electoral Tribunal should be improved with respect to constitutional impediments relating to candidates for public office.
3. We also need to maintain and implement oversight more efficiently and effectively with respect to contracting and procurement by Public Administration, since despite the existence of a control mechanism that seeks, through sworn statements submitted by bidders, to ensure that conflict of interest situations do not arise, such situations may occur as in the cases of a decentralized agency responsible for supplying potable water and a state bank, although legal and administrative measures have been adopted to prosecute and try those allegedly responsible for the crimes.
4. The Superintendency of the Financial System, within its jurisdiction, has operated very efficiently to implement the provisions contained in the Banking Law, the Law on Non-Bank Financial Intermediaries, and the Law against Money-Laundering.
5. In addition, competent officials must be trained in the area of administrative procedures, in order to avoid corruption cases that are dismissed because of technical deficiencies in the investigations.

d. If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct for the correct, honorable and proper fulfillment of public functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.

2. Conflicts of Interests

- a. ***Are there standards of conduct in your country regarding the prevention of conflicts of interest in the performance of public functions? If yes, briefly describe them, indicating aspects such as to whom they apply and the concept on which they are based, and list and attach a copy of the related provisions and documents.***

Yes, there are standards to prevent conflicts of interest on the part of public servants in the fulfillment of their functions, by reason of the functions they perform, their family relations, and their economic links with third persons. Most of these standards are contained in the internal regulations or provisions of the agencies in which officials carry out their public functions.

Some legal provisions in this respect are:

1. Art. 27 Con. indicates impediments barring someone from being a candidate for deputy, when he or she is a concessionaire or contractor, administrator or in charge of public funds who has not completed their service; a high level official in the executive branch or who has jurisdiction, as well as active military personnel or relatives of the President of the Republic. Art. 189 Con. prohibits Magistrates and Judges from practicing as attorneys or notaries, or serving as officials in other state bodies, thus avoiding conflicts of interest of any type. Similar standards are also established in Con. Arts. 128, 152, 153, 161, 171 and 178.
2. Judges and Magistrates of the Judicial Branch, depending on the applicable process of law, may be recused from hearing cases on grounds designed to prevent conflicts (Art. 73 et seq. of the Code of Criminal Procedures and Art. 1152 et seq. of the Code of Civil Procedures).
3. Art. 26 of the Law on Procurement and Contracting of the Public Administration prohibits the members of the Council of Ministers, officials and employees thereof and their relatives from participating as bidders for government contracts. Contracts entered into in violation of these standards are null and void.
4. Art. 18 of the Organic Law of the Superintendency of the Financial System establishes that the spouse and minor dependent children of the Superintendent may not borrow from institutions subject to the oversight of the Superintendency.
5. Art. 7 of the Law of the Superintendency of Commercial Obligations avoids conflicts of interest by prohibiting the Superintendent and other officials and employees of the Superintendency from: a) being partners or shareholders, or from belonging to management, administrative, or oversight bodies of the supervised entities; b) if they are Notaries of the Republic, from practicing as a public notary on matters under the jurisdiction of the Superintendency; c) from intervening in the investigation and handling of procedures in which they, their spouses or partners, or their relatives to the fourth degree by blood or second degree by marriage have an interest. The official or employee who is proven to have violated these prohibitions shall be punished in accordance with the law through the corresponding legal procedure, and any investigations, resolutions, or authorizations in which they have participated shall be null but shall produce effects only when unfavorable to the dealer. In the case considered in "b" above, the violation committed shall be certified by the Notary Section of the Supreme Court of Justice for the resulting legal purposes.
6. The Law on Administrative Procedures prevents conflicts of interest to some extent in that any action an official takes or neglects to take in violation of pre-established regulations, deadlines, and procedures may be investigated as to its legality. It may happen that actions have been taken or omitted under circumstances where there is a presumed conflict of interests, and the official may have acted as he or she did for his or her own benefit or in order to obtain a direct or indirect benefit.
7. Art. 61 of the Electoral Code establishes that the following persons may not be Magistrates of the Supreme Electoral Tribunal: 1) the President and Vice President of the Republic, those Appointed to the Office of the President of the Republic, Ministers and Vice Ministers of State, the President of the Legislative Assembly, the President

and Magistrates of the Supreme Court of Justice, the President and Magistrates of the Court of Accounts of the Republic, the General Prosecutor of the Republic, the Public Defender of the Republic and the Human Rights Ombudsman; 2) senior military officers or those who have served as such during the three years prior to starting their terms of office; 3) officials with judicial jurisdiction; 4) spouses or relatives by adoption or to the fourth degree by blood and second degree by marriage of any Tribunal Magistrate or the officials indicated in paragraph 1) of this article; 5) the individuals indicated in Art. 7 of the Electoral Code; 6) those who have administered or managed public funds, as long as they have not obtained the respective clearance; 7) contractors and subcontractors of government projects or companies financed with State or Municipal funds, their guarantors, and those who, as a result of such projects or companies, have claims pending in their own interest; and 8) debtors of the Public or Municipal Treasury who are in arrears.

8. According to Art. 6 of the Decree Creating the National Records Center and its Administrative System, the Executive Director of the Institution is appointed by the President of the Republic and that position is incompatible with any other paid position or the practice of any profession other than teaching.
9. The Law of the Court of Accounts defines a National System for Oversight and Audit of Public Administration. As noted, its basic tool is the audit, which may detect the occurrence of a conflict of interest by finding indications that an official or institution is carrying out activities that result in a conflict of interest, when ruling on the legality, efficiency, effectiveness and transparency of the management of any public official, and examining the financial, administrative, and operational activities of the institutions and employees subject to its jurisdiction.
10. In addition, other laws, such as the Banking Law, contain various provisions on incompatible role and conflicts of interest.

b. *Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.*

Yes, there are mechanisms for enforcing compliance with these standards.

1. The instrument containing provisions enforcing compliance with these standards is the Law on Procurement and Contracting by the Public Administration. It provides for the creation of two management units: the Procurement and Contracting Standards Unit (UNAC) within the Ministry of Finance; and the Institutional Procurement and Contracting Unit (UACI) within each government institution or agency. The heads of these units must be of recognized moral character and must have no conflicts of interest, nor may they have any current contract or concession with the State. These units verify that contracts have been negotiated in accordance with the rules established in Art. 26 of that Law, which rejects bids or tenders that involve employees and their relatives. Since the contracts governed by the law include almost all items under public administration such as Public Works, Supply, Consulting Services, Concession and Leasing of Movable Goods, the corresponding capacities and incapacities to contract are established in the law. The law has provisions relating to prequalification (a prior step in which qualified bidders are preselected) and prequalified bidders are directly invited to submit bids. Bidders with conflicts of interest can be eliminated at this point. Contracting requires the following guarantees: maintenance of offer, proper investment of down payment, fulfillment of contract, and good work. There are also measures designed to protect the State in the event a conflict of interest arises that could affect the performance of the work.
2. In the case of external cooperation funds, even when there is no specific law, the respective Agreement signed generally establishes clauses on supervision of the use of the funds or the Agreement establishes that such use shall be governed by letters of

understanding, protocols or annexes. International loan contracts include clauses on supervision and there is generally a supervision committee.

3. Another mechanism for preventing conflicts of interest is the audits performed by the Court of Accounts of the Republic. These audits may be external, financial and operational audits or management audits of entities and agencies that administer government funds. The Court of Accounts is also empowered to issue policies, technical standards and other provisions governing the practice of internal control, government audit, internal or external, of financial, operational and management affairs. The drawback of these audits is that they are *a posteriori* and not preventive in nature.
4. The Judicial Branch has provisions designed to prevent conflicts of interest in judicial decisions. The mechanisms used may be *ex officio* when the official declares him or herself unqualified or unable to hear the matter based on some grounds under the law being applied according to the proceeding involved or may be at the initiative of an interested party when disqualification is alleged through a legal action or objection.

Almost all the standards of conduct indicated above establish limitations with respect to appointing public officials or employees or approving their performance and are implemented through internal mechanisms for selecting officials within bodies or institutions. If any anomaly is detected that could give rise to conflicts of interest during a public servant's term of office, it will be investigated according to the internal administrative standards or according to the procedures established in the Law on Illicit Enrichment of Public Officials and Employees, the Law on Procurement and Contracting, of the Civil Service Law, as applicable.

c. *Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.*

Results in implementing the Law on Procurement and Contracting in the Public Administration have been generally positive, given that bids are screened before contracts are awarded. There are no concrete statistical data illustrating the grounds on which bids have been rejected or contracts later awarded.

The implementation of the Law of the Court of Accounts has obtained good results, in that it has been possible to detect irregularities and proceedings have been conducted to determine administrative or asset-related responsibilities, through the various divisions of the Court of Accounts.

As for the Judicial Branch, given that the mechanism is *ex officio* or at the initiative of an interested party before the case is heard, the mechanism is a preventive measure.

d. *If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to prevent conflicts of interests, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convent.*

3. Conservation and proper use of resources entrusted to public officials in the performance of their functions.

- a. *Are there standards of conduct in your country that govern the conservation and proper use of resources entrusted to public officials in the performance of their functions? If yes, briefly describe them, indicating aspects such as to whom they apply and whether there are exceptions, and list and attach a copy of the related provisions and documents.*

El Salvador has standards to ensure the conservation and proper use of public resources. Some have already been mentioned and are thus listed only briefly here:

1. Law of the Court of Accounts of the Republic, applicable to all public sector entities and bodies and their employees without exception. Its purpose is to supervise and control public finances in general, budgetary execution in particular, and the economic management of public entities and public servants. Applicable sanctions in case of violation include civil liability, administrative fines, and criminal prosecution. The law also governs the proper use of the resources of public administration, through the obligation that all government institutions have pursuant to Art. 26 to maintain internal oversight of their activities. Each public sector entity and agency must establish its own system of internal financial and administrative oversight, on a prior, concurrent and ex-post basis, in order to have and provide reasonable security, and to meet its objectives with efficiency, effectiveness and economy while ensuring transparent management, reliable information, and compliance with applicable rules. The Audit Office has been adopted as a government mechanism for control of the public purse; it enjoys budgetary independence for the full exercise of its powers, and has the objective of introducing modern methods and criteria. In order to fulfill its functions, the Court of Accounts has issued regulations on prevention and the proper use of funds (Art. 195 No. 6, Constitution). These include:
 - a) Regulations to control the use of government vehicles; Decree No. 4, published in Official Gazette No. 238, Volume 353 of December 17, 2001, with effect as of that date.
 - b) Regulations for controlling the distribution of fuel in public sector entities and agencies; Decree No. 5, published in Official Gazette No. 238, Volume 353 of December 17, 2001, with effect as of that date.
 2. The Law on Illicit Enrichment of Public Officials and Employees, applicable to those who perform public functions. Its purpose is to prevent illicit enrichment; it includes monetary penalties and removal from office.
 3. The Civil Service Law, applicable to officials and employees in Public Administration, in Municipalities, and in decentralized agencies that do not enjoy economic or administrative autonomy. Its purpose is to ensure the efficiency of Public and Municipal Administration and to organize the administrative career path. Applicable sanctions include warnings, fines, suspensions, demotion, limitations on promotions, and removal from office.
 4. In the area of finance, there are provisions contained in the following instruments: the Internal Regulations of the Executive Branch, the Uniform Central American Customs Code (CAUCA), the Organic Law on the General Directorate of Internal Taxation, the Taxation Code, and the Regulations to the Organic Law on Financial Administration of the State.
- b. *Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.*
1. As indicated earlier, it is essentially the responsibility of the Court of Accounts of the Republic to do the work of supervising and overseeing the public purse, budget execution, and the financial management of public officials and employees. The mechanism used is the audits that are performed to establish diversions or misappropriations of funds. If indications of criminal responsibility are found during an audit, the head of the institution must so advise the Prosecutor General, in order to initiate criminal proceedings. The Court of Accounts also includes a mechanism for responding to complaints submitted by any citizen, through the Citizen Participation Unit of that institution.

2. Another mechanism that permits the proper use of government property is the Preventive Action of the Court of Accounts, which may act ex officio or at the request of the interested institution to formulate audit recommendations for avoiding irregularities that would lead to the misuse of government resources.
3. Other mechanisms are established in the Civil Service Law to enforce compliance with the duties of public officials and employees in the handling of funds, including disciplinary aspects. That Law includes the operations of the Civil Service Commissions among the procedures for enforcing observance of the law.
4. The Law on Illicit Enrichment of Public Officials and Employees, through the processes contained therein, imposes penalties on the officials to whom it applies, from monetary sanctions to removal from office. The principal mechanism for implementing this law is the sworn statement of assets that officials must submit within 60 days of assuming office and within 60 days of leaving office. If there are indications of illicit enrichment on the part of a public official or employee, the Supreme Court of Justice must issue a resolution ordering the Civil Chamber where the employee or official is domiciled to initiate a case for illicit enrichment. Once the proceeding has begun, the Civil Chamber shall report its first ruling to the General Prosecutor of the Republic, so that it will intervene personally or through a delegate. The case will follow the procedures established in the Code of Civil Procedures for ordinary cases, but modified so that there will be hearings instead of changes of venue.

c. *Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.*

The objective results of the provisions and laws described above have been fruitful, especially the results of the Audits conducted by the Court of Accounts. The problem lies with the prosecution of those accused of crimes involving government property.

There are no statistical data.

d. *If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct intended to ensure the proper conservation and use of resources entrusted to public officials in the performance of their functions, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention:*

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

a. *Are there standards of conduct in your country that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware? If yes, briefly describe them, indicating aspects such as to whom they apply and if there are any exceptions, and list and attach a copy of the related provisions and documents.*

1. Art. 241 Con. requires public officials to report to the competent authorities any acts of corruption of which they become aware. It requires public officials, civilian or military, who become aware of a crime committed by a subordinate official or employee to report this promptly to the competent authorities for prosecution. If they fail to report promptly, such omission will be deemed to constitute concealment, and they will incur the corresponding criminal liability.
2. In such situations, pursuant to the Criminal Code (Art. 308), concealment constitutes an offense against the administration of justice, if the concealer was aware that the crime was committed but was not involved in it as perpetrator or accomplice, through prior

collusion. In addition, because they are public officials, they also commit the crime of Failure to Notify [*omisión de aviso*] defined in Art. 312 of the Criminal Code, which punishes acts of omission by public officials and employees. Any public official or employee, public authority or agent of authority who, in the exercise of his or her duties or on the occasion thereof, has knowledge that a punishable deed has been committed, and fails to report that fact to the competent officer within 24 hours, is guilty of this crime. In such cases, the penalty is a fine of 50 to 100 days.

Supplementary provisions include the following:

3. Article 10 of the Law on Illicit Enrichment of Public Officials, which allows complaints to be brought before the Supreme Court of Justice against public servants when there is evidence or suspicion that they have committed a crime.
4. Article 19 of the Law on Procurement and Contracting by the Public Administration requires subordinates to report to the Prosecutor General any crimes committed by their superiors. In addition, an official must report to the competent authority if there are indications that a subordinate has committed a crime.

b. *Are there mechanisms to enforce compliance with the above standards of conduct? If so, briefly describe them and list and attach a copy of the related provisions and documents.*

The mechanisms contained in the foregoing laws have allowed the reporting of crimes committed by public officials and employees, so that the respective investigations can be initiated.

It is clear, moreover, that under Art. 2 of the Regulations of the Court of Accounts for responding to citizen complaints, individuals or legal persons, including public servants who have direct knowledge of the improper use of government goods or resources, may submit a complaint to the Citizen Participation Section, personally or through an attorney, by e-mail, by fax or by telephone.

Based on the foregoing, we conclude that an official who is required to report any act of corruption and fails to do so incurs criminal liability. It is this mechanism that exerts pressure on the official to perform the duties of his or her office.

On this subject, we should mention the complete freedom of expression and action of members of the media who denounce corrupt acts through investigative journalism.

c. *Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.*

The results obtained show that there have been a number of complaints presented to the Court of Accounts through its section for responding to citizen complaints, but the administrative and judicial procedures for imposing penalties on those accused of corrupt acts must be made more effective.

d. *If no such standards and mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the standards of conduct that establish measures and systems governing the requirement that public officials report to appropriate authorities acts of corruption in public office of which they are aware, and mechanisms to enforce compliance, in accordance with Article III (1) and (2) of the Convention.*

CHAPTER TWO

SYSTEMS FOR REGISTERING INCOME, ASSETS AND LIABILITIES (ARTICLE III, 4)

- a. Are there regulations in your country establishing methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public? If yes, briefly describe them, indicating aspects like to whom they apply and when the declaration must be presented, the content of the declaration, and how the information given is verified, accessed, and used. List and attach a copy of the related provisions and documents.**

The Law on Illicit Enrichment of Public Officials and Employees, in effect since 1959 with its publication in Official Gazette No. 87, Volume 183, dated May 18, 1959, as amended by Legislative Decree No. 3752 of November 19, 1992, published in Official Gazette No. 221, Volume 317 dated December 1, 1992, governs the reporting of income by officials through a sworn declaration of wealth, and these declarations are the principal supervisory and oversight instrument.

This law establishes the system of declaring income, assets and liabilities for persons performing public functions. It is enforced by the Probity Section of the Supreme Court of Justice and related to persons performing public duties both in the country and abroad.

The law also establishes the obligation of a public official or employee to declare his wealth before taking up his position and upon leaving that position. It first defines those persons who are considered public officials and employees for purposes of application, and then lists all those categories required to present the sworn declaration of wealth.

Art. 7 of the law establishes as the parameter for determining illicit enrichment not only salaries and emoluments received but also increases in capital and income for any justified reason. It also includes capital and income of the spouse and children.

- b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.**

Public officials bound by the law submit their declarations of wealth to the Probity Section of the Supreme Court of Justice. Fines are imposed on those who do not do so at the proper time.

In addition, there is a bill to modernize the Probity Section of the Supreme Court of Justice; it dates from 1998 and contains amendments to the respective law.

CHAPTER THREE

OVERSIGHT BODIES

- a. Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in Article III (1), (2) and (4)? If yes, list and briefly describe their functions and characteristics, and attach a copy of the related provisions and documents.**

Yes, El Salvador has oversight bodies that use mechanisms for preventing, detecting, punishing and eradicating corrupt practices. These include:

1. The Court of Accounts of the Republic is an institution that enjoys independence, based on its technical nature, and its activities are above any particular interest. The President and Magistrates of the Court of Accounts are elected by the Legislative Assembly by voice vote for a period of three years.
2. In accordance with the Law on Illicit Enrichment of Public Officials and Employees, the Supreme Court of Justice, through its Probity Section, is responsible for enforcing the oversight mechanisms for the statements of income, assets and liabilities of public servants, their spouses and children. This law applies to public officials and employees who, through popular election, election by the Legislative Assembly, appointment by the competent authority, or official designation, are involved in public functions or activities, as well as those who administer, manage or hold assets or funds of the State or the municipality, by virtue of law, regulation, or official appointment. Art. 5 of the law provides that the declarations are to be kept confidential. Penalties for those who fail to submit their declaration of assets consist of fines imposed by the Supreme Court of Justice.
3. According to the Organic Law on the Superintendency of the Financial System, the powers of the Superintendent include the power to supervise and oversee the operations of the Central Reserve Bank of El Salvador and other components of the financial system, employing generally accepted auditing rules and procedures; overseeing the issuance of currency, in particular the operations of printing, minting, issuance, exchange, withdrawal, cancellation, demonetization, destruction and custody of currency; and, as appropriate, conducting full inspections of banks and components of the financial system.

- b. Briefly state the results that said oversight bodies have obtained in complying with the previous functions, attaching the pertinent statistical information, if available.**

Through its audits, the Court of Accounts has on several occasions detected the misuse of public funds, and has reported this to the Prosecutor General for the appropriate criminal action.

The Supreme Court of Justice, through its Probity Section, has been monitoring the wealth declarations of public officials and employees, and has applied financial sanctions on several occasions.

The Superintendency of the Financial System has applied the law governing its operations as well as the Banking Law and the Law against Money-laundering.

There have been several cases in which its reports have been brought before the courts of justice.

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

a. Are there in your country a legal framework and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption?

Although there is no legal framework in El Salvador designed to encourage participation by civil society and non-governmental organizations (NGOs) in combating corruption, neither is there any legal or political system designed to prevent such participation.

The way the system is set up, any individual or association has the right to inform competent authorities of any corrupt act.

1. First, although the Law on Nonprofit Associations and Foundations, whose implementation lies with the Ministry of the Interior (*Ministerio de Gobernación*) does not provide for the participation of NGOs in this sense, neither does it discourage such participation. The law regulates the activity of associations and foundations that consist of groups of persons permanently established for any legal activity or for the administration of funds earmarked for public purposes. The Court of Accounts of the Republic, as noted earlier, has a mechanism for receiving and responding to complaints submitted by individual citizens to the Citizen Participation Unit, regarding crimes or corrupt conduct on the part of public officials or employees. This mechanism neither inhibits or discourages the participation of civil society or NGOs. In addition, the Prosecutor General's Office (*Fiscalía General*) and the National Civil Police are the competent bodies for receiving complaints on crimes committed by anyone.
2. Art. 10 of the Law on Illicit Enrichment of Public Officials and Employees provides that any citizen in the exercise of his political rights may report acts of corruption. It makes no distinction between individuals, civil society or NGOs and thus it too should be understood as not excluding them from such activity.
3. Art. 229 of the Code of Criminal Procedures establishes that any person who witnesses the commission of a publicly actionable crime must report it immediately to the Prosecutor General, a justice of the peace, or the National Civil Police. It should also be understood that civil society and NGOs may do so as well.
4. Art. 31 of the Law Regulating Drug-Related Activities obliges the owners or managers of social, cultural, recreational, sporting or any other type of entity to prevent and avoid use of their premises for illicit activities defined in that law.
5. Art. 33 of the Law to Repress Smuggling and Customs Fraud encourages the reporting of smuggling by offering a reward of up to 50% of the value of the fine imposed on the perpetrator of the crime, or of the value brought by the goods at auction.
6. Article 7 of the Consumer Protection Law provides that any person may report deeds that constitute a violation of the Law, thereby offering a direct channel for persons or civil society organizations to report acts of corruption not only in government, but private corruption as well.
7. The internal rules on the submission and handling of citizen complaints filed with the Court of Accounts, which gives the Court of Accounts and its divisions in the country jurisdiction to receive, analyze and investigate citizen complaints, as part of ex-post external oversight of public administration.

b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

There have been limited results. Emphasis should be placed on the activity of the media in this area. In addition, government agencies are joining forces through bills and amendments to current

regulations to provide a legal framework and mechanisms to encourage the participation of civil society and non-governmental organizations in efforts designed to prevent corruption.

The results of implementing the internal rules for submitting and handling citizen complaints filed with the Court of Accounts, although not constituting a preventive measure, have allowed citizens to file complaints. The following statistics relate to this activity:

CITIZEN PARTICIPATION

Handling of Complaints

Description	Number of Complaints
1. Being processed as of January 1, 2003	12
2. Received during the year	208
Total	220
3. Results of analysis of complaints	196
a) Transferred to Audit Divisions	57
Administrative and Economic Development	6
Justice and Economic Sphere	3
Social and Environment	19
Municipal	29
b) Sent to internal file	139
4. Under analysis as of December 31, 2003	24

Source: 2003 Work Report, Court of Accounts

Citizen Complaints by Source, Means and Administration Sector

Source and Means of Submission	Administration Sector				Total
	A&ED	J&ES	S&E	Municipal	
Person	Natural	26	12	49	86
	Legal	8	2	8	21
	Governmental	2	1	1	4
Total by Source		36	15	58	111
Submission	Written	17	9	13	27
	Verbal	13	4	41	65
	Media	6	2	4	19
Total by Means		36	15	58	111

A&ED = Administrative and Economic Development J&ES = Justice and Economic Sphere S&E Social and Environment

Source: 2003 Work Report, Court of Accounts

c. If no such mechanisms exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption, in accordance with Article III (11) of the Convention

The Court of Accounts is currently promoting the Decree Creating and Regulating the Office of Ethics for the Public Service, a body that would, among other things, be responsible for encouraging civil society to participate in the prevention of corruption.

A draft Code of Ethics for the Legislature is also under study. It is being discussed in the Legislation Committee of the Legislative Assembly and includes chapters on citizen participation and access to information.

2 Mechanisms for access to information.

a. Are there mechanisms in your country that regulate and facilitate the access of civil society and non-governmental organizations to information under the control of public institutions?

The Constitution of the Republic guarantees every person the right to submit petitions in writing, and to have the authorities respond to them and report the outcome (Art. 18). In this respect, any person, acting on his own behalf or on behalf of a nongovernmental organization, has the right to request information in the possession of or under the control of public institutions, and to have that information delivered, unless there are legal restrictions to the contrary.

There are more than 200 web pages of centralized and decentralized government institutions through which users may send reports relating to the behavior of public employees and officials, send their observations or comments regarding official behavior, as well as learn about the activities the institutions carry out to fulfill their functions.

b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

The government is currently seeking to establish mechanisms to make progress in this area.

3. Mechanisms for consultation

a. Are there mechanisms in your country for those who perform public functions to consult civil society and non-governmental organizations on matters within their sphere of competence, which can be used for the purpose of preventing, detecting, punishing, and eradicating public corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents

The few legal instruments on this subject include the Municipal Code (Art. 115 et seq.), under which the Municipal Councils must hold open meetings at least every three months to report publicly on municipal management, deal with issues raised by local residents, and those issues that the Council itself considers important.

Participation is open and those in attendance may make suggestions and ask questions regarding the items in the agenda.

In addition, when considered advisable or when the council wants to know the public's opinion on a specific project or policy to be developed, the citizens may be called upon to express their opinion through popular consultations.

Another legal instrument that considers this possibility is the Environment Law, whose purpose, while not exactly to prevent or detect acts of corruption, at least contemplates popular consultations for approval of environmental policies, plan and programs, with participatory organizations at the regional, departmental and local level (Art. 8), the purpose being to achieve transparency.

Finally, mention should be made of the Regulations of the Court of Accounts of the Republic for Handling Citizen Complaints, which establish as follows in the whereas clauses: 1. That one of the purposes of El Salvador's oversight body (Court of Accounts) is its commitment to safeguard State resources and contribute to combating corruption; 2. That the active role of citizens in social oversight of government operations must be recognized, by establishing a suitable nexus through the oversight body (Court of Accounts); and 3. That there must be an instrument to regulate the appropriate channel for citizen complaints filed with the Court of Accounts of the Republic. The philosophy of the law is implemented through 17 articles, and Art. 2 creates the Citizen Participation Section, which handles complaints submitted by the citizenry.

b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

Three municipalities (San Salvador, El Carmen, and Olocuilta) have adopted ordinances on transparency, participation and access to municipal information, in which the municipal

authorities undertake to provide information ex officio and also to receive and respond to petitions from the public on municipal matters. Those ordinances have already been published in the Official Gazette, as follows:

- Official Gazette 92, Volume 355, Ordinance on Transparency in Municipal Management and Citizen Participation, Municipality of San Salvador, May 22, 2002.
- Official Gazette No. 123, Decree No. 2, Ordinance on Transparency for Access to Public Information, Municipality of El Carmen, Cuscatlán, July 4, 2002.
- Official Gazette No. 138, Decree No. 7, Ordinance on Citizen Participation and Access to Public Information for Transparency in Municipal Administration, City of Olocuilta, La Paz, July 25, 2002.

It should also be mentioned that ordinances on citizen oversight have been approved and published in Official Gazette No. 152, August 20, 2002 for the municipalities of San Isidro Labrador, San Antonio de la Cruz, Nueva Trinidad, Arcatao, Dulce Nombre, San Antonio del Monte and Concepción Batres.

4. Mechanisms to encourage active participation in public administration

- a.** *Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.*

No such mechanisms currently exist, but a bill is pending to establish an Ethics Commission for Public Service in El Salvador. Its purpose is not only to prevent and combat the corruption of public servants but also to encourage individuals to participate in the process of public decision-making and implementation, and in the monitoring of government activity. The Commission would establish this channel for private individuals whose participation is currently limited due to the absence of suitable legal instruments.

- b.** *Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.*

There are no statistical data.

5. Participation mechanisms for the follow-up of public administration

- a.** *Are there mechanisms in your country to permit the participation of civil society and non-governmental organizations in the follow-up of public administration, in order to meet the purposes of preventing, detecting, punishing and eradicating acts of public corruption? If so, briefly describe them, and list and attach a copy of the related provisions and documents.*

Previous responses have mentioned cases in which participation by civil society is permitted in monitoring public management with respect to corruption.

In addition, the Municipal Code contains provisions on community participation, as follows:

- Title IX, Chapter I, Art. 115. Municipal councils must hold open meetings at least every three months to report publicly on municipal management, and to deal with matters raised by local residents, and those that the council itself considers important.
- All residents of the municipality may attend these open meetings and may participate in discussion of the points at issue, as well as make suggestions and ask questions on matters on the agenda.
- All residents of the municipality and labor, social, cultural and community organizations must be invited to the open meetings.
- Art. 116. When the council needs or wishes to know the public's opinion on a specific project or policy, public consultations can be held at which people may express their opinions.
- The Council may not act against the majority opinion as expressed in the consultations.
- Such consultations will take into account only those citizens who reside in the municipality, and presentation of the Personal Identity Card is sufficient to exercise this right.
- Art. 117 provides that the Secretariat of the Council will keep a record of proceedings at open meetings and popular consultations.

b. Briefly state the results that have been obtained in implementing the above standards and mechanisms, attaching the pertinent statistical information, if available.

There is no additional information on this subject.

CHAPTER FIVE

ASSISTENCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

- a. Briefly describe your country's legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from other States that, in accordance with their domestic law, are empowered to investigate or prosecute acts of public corruption, for the purpose of obtaining evidence and carrying out other actions necessary to facilitate proceedings relating to investigation and prosecution of acts of corruption. Attach a copy of the provisions that contain such mechanisms.**

The legal framework that establishes mechanisms for mutual assistance and cooperation in this area consists of the Constitution, the Criminal Code, and international treaties signed by El Salvador, particularly the Bustamante Code (1928).

1. Article 28 of the Constitution regulates asylum and the extradition of nationals.
2. Articles 8, 9 and 10 of the Criminal Code regulate application of the principles of territoriality, nationality, and universality for the application of criminal law. Pursuant to article 8, Salvadorian law applies to punishable deeds committed in whole or in part in the territory of the Republic, or in places subject to its jurisdiction. According to Article 9, Salvadorian law applies to crimes committed abroad by persons in the service of the State, if they have not been prosecuted in the place where the crime was committed because of privileges inherent in their duties; crimes committed by a Salvadorian abroad or in a place not subject to particular jurisdiction in a State; and crimes committed abroad by Salvadorians when an extradition request is denied because of their nationality, or by foreigners against juridical goods of Salvadorans. Article 10 contains the principle of universality, whereby Salvadorian law applies to crimes committed by any person in a place not subject to Salvadorian jurisdiction, if they affect goods protected internationally by specific treaties or rules of international law.
3. The Bustamante Code regulates active and passive extradition.
4. The procedure for mutual assistance is as follows: the request for judicial assistance is submitted via diplomatic channels by the requesting State to the Ministry of Foreign Relations, which will register the request and transmit the corresponding act to the Supreme Court of Justice, through the Ministry of the Interior. The Supreme Court of Justice will determine whether the request is in accordance with the law, and if it is, will complete the act. When the act is completed, it is sent back to the Ministry of Foreign Relations, through the Ministry of the Interior, for transmission by diplomatic channels to the requesting State. The exception to this procedure is that, pursuant to an international treaty, communications relating to judicial assistance may be conducted directly between the central authorities.

The diplomatic channel for receiving and issuing requests for mutual legal assistance is the Ministry of Foreign Relations, the telephone contact number for which is (503) 231-133 071 and the fax number is (503) 222-57 98, for the Legal Advisory Unit.

Legal basis: Article 182 (3) Constitution of the Republic; Article 139 Code of Criminal Procedures; Article 27 Code of Civil Procedures; Article 32 (2 and 44 (c)) of the Internal Regulations of the Executive Branch; and International Treaties on the subject of cooperation such as the Inter-American Convention on Letters Rogatory, the Inter-American Convention against Corruption, the Inter-American Convention against Terrorism, the Central American Treaty on Mutual Legal Assistance on Criminal Matters and the Inter-American Convention on Mutual Assistance on Criminal Matters. The latter has already been ratified by the Legislative Assembly and all that needs to be done is deliver the respective ratifying instrument to the OAS Secretariat.

- b. Has your government presented or received requests for mutual assistance under the Convention? If so, indicate the number of requests that it has presented, explaining how many of them have not been answered and how many have been denied and for what reason; indicate the number of requests that it has received, explaining how many of them have not been answered and how many have been denied and for what reason; mention the average time it has taken your country to answer said requests and the average time in which other countries have responded, and indicate whether you consider these intervals reasonable.**

A request for extradition was recently presented to the authorities of the United States of America regarding officials involved in the ANDA corruption case, based on the Extradition Agreement between El Salvador and the United States of America and the Inter-American Convention against Corruption. We are awaiting a response.

2. Mutual technical cooperation

- a. Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.**

The mechanisms that permit cooperation are those listed in the previous question, and all those covered in the international treaties on legal assistance to which El Salvador is party and in those that include judicial cooperation such as the Inter-American Convention against Corruption and the Inter-American Convention against Terrorism.

- b. Has your government made requests to other States Parties or received requests from them for mutual technical cooperation under the Convention? If so, briefly describe the results.**

An Agreement on Cooperation against Corruption between the Government of the Republic and the United States of America, which contains nine paragraphs and a Participant's Certification of Narcotics and Drug Trafficking Offenses, was signed on April 14, 2000 and ratified by the Legislative Assembly on November 16 of that year.

A request for extradition was recently presented to the authorities of the United States of America regarding officials involved in the ANDA corruption case, based on the Extradition Agreement between El Salvador and the United States of America and the Inter-American Convention against Corruption. We are awaiting a response.

- c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.**
- d. Has your county developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained.**

With financial support from the United States Agency for International Development (USAID) under the anticorruption agreement signed in April 2000, two significant projects were undertaken in 2001 to combat corruption: the first relates to the draft of an Executive Decree creating an Ethics Office for the Public Service, and the second is the draft of an Executive Decree creating

the Code of Ethics for the Public Service. Both documents contain the respective statement of purpose.

The work sponsored by USAID was carried out by a commission of consultants under the direction of the rapporteur, which delivered its reports to the President of the Republic who referred them to the Court of Accounts of the Republic so that all public officials will be covered by these drafts.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of Central Authorities

a. *Has your country designated a central authority for the purposes of channeling requests for mutual assistance as provided under the Convention?*

To date the Central Authority has not been designated pursuant to Art. XVIII of the IACAC.

Nonetheless, the Office of the Vice President of the Republic has been coordinating programs relating to efforts to combat corruption.

To implement the Inter-American Convention against Corruption (IACAC), the Office of the Vice President of the Republic coordinated with the OAS on adapting the IACAC to the Salvadoran Criminal Code, and there is a working document on this that includes draft amendments to that code.

In addition, the Vice President, who also serves as President of the National Council for Sustainable Development (CNDS) named the CNDS on July 3 of last year as the Coordinating Unit under the Follow-up Mechanism for the Implementation of the IACAC, and it is responsible for responding to the respective questionnaires.

b. *Has your country designated a central authority for the purposes of channeling requests for mutual technical cooperation as provided under the Convention?*

No

c. *If your country has designated a central authority or central authorities please provide the necessary contact data, including the name of the agency(ies) and the responsible official(s), the position that he or she occupies, telephone and fax numbers, and e-mail address(es).*

d. *If no central authority or authorities have been designated, briefly indicate how your State will implement the obligation, in accordance with Article XIV (2) of the Convention.*

For the moment and until a Central Authority is designated for purposes of this Convention, the current channel, i.e., the Supreme Court of Justice, acting through diplomatic channels, will continue to be used.

2. Operation of Central Authorities

a. *Does the central authority have the necessary resources to enable it to properly make and receive requests for assistance and cooperation under the Convention? If yes, please describe them briefly.*

No

- b. Has the central authority, since its designation, made or received requests for assistance and cooperation under the Convention? If so, indicate the results obtained, whether there were obstacles or difficulties in handling the requests, and how this problem could be solved.***

No

III. INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please complete the following information:

State Party: El Salvador

The official to be consulted regarding the responses to the questionnaire is:

Mr. Alvaro Magaña Granados

Title/position: Executive Secretary

Agency/office: Consejo Nacional para el Desarrollo Sostenible

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