

Questionnaire on provisions selected by the Committee of Experts for analysis within the framework of the first round

1. Brief description of the legal-institutional system

On November 25, 1975 Suriname obtained its independence after having been a colony of Holland for ±300 years. The official language is Dutch. The **Republic of Suriname** is a **democratic** state, based on the sovereignty of the people and on respecting and guaranteeing the fundamental rights and freedoms. Suriname acknowledges and respects the international law of self-determination and national independence on the basis of equality, sovereignty and mutual interests.

The government of Suriname is based on the **trias-politica doctrine or the separation of powers**. The **President** is the head of state of Suriname, head of government, chairman of the State Council and of the Security Council. He is responsible to the National Assembly. **The executive power rests with the President**. Together with the Vice-President and the Council of Ministers he forms the government. The political power rests with the people and is exercised in accordance with the Constitution. The political democracy creates the condition for the people's participation in general and free elections by secret ballot to compose the people's representative organs of the government. The **National Assembly** represents the people of the Republic of Suriname and expresses the sovereign will of the nation. The National Assembly is the highest body of the State and consists of 51 members, who are elected per district on the basis of general and free elections by secret ballot in accordance with the system of proportional representation by highest average and preference votes. The members of the National Assembly are directly elected for a term of office of five years. The democratic arrangement of the Republic of Suriname comprises at the regional level lower government bodies, of which the function, the organization, the authorities and the procedure are laid down by law in accordance with the principles of participative democracy and decentralization of government and legislation. At the regional level there are two representative bodies, the **district councils** and the **local councils**. The district council is the highest political-administrative organ of the district, while the local council is the highest political-administrative organ of the area of jurisdiction. **The legislature** is jointly exercised by the National Assembly and the Government.

The judiciary in Suriname is formed by the President and the Vice-President of the High Court, the members and the deputy members of the High Court, the Procurator-General of the High Court and the other members of the Public Prosecutions Department, as well as other judicial officers, as indicated by the law. The **High Court** is the highest authority of the Judiciary responsible for the administration of justice. The Court supervises the orderly conclusion of all judicial proceedings.

The President, the Vice-President, the members and the deputy members of the High Court together form the **judiciary responsible for the administration of justice.**

The Public Prosecutions Department, to the exclusion of all other organs, is responsible for investigations and in charge of the prosecution of all offenses. The government determines the general prosecution policy. In the interest of national security the Government may give orders to the Procurator General with regard to the prosecution in concrete cases.

Ratification of the Inter-American Convention against corruption

By act of 20 December 2001 the National Assembly approved Suriname's accession to the Inter-American Convention against Corruption. The State of Suriname ratified this Convention in Barbados on 4 June 2002.

Chapter one Measures and mechanisms regarding standards of conduct for the correct, honorable and proper fulfillment of public functions.

1. General Standards of conduct and mechanisms

- a. Yes, there are standards of conduct in Suriname for the correct, honorable and adequate fulfillment of public functions.
 - The **Personnel Act** of Suriname contains a few general standards of conduct. These are:

Article 36 section 1: A civil servant is obliged to carry out to the best of his knowledge the work that his function –including additional functions- involves, and must be able to carry out promptly and loyally the orders he is given by authority and which relate to the service, and he must also always behave as befits a good and faithful civil servant.

Article 36 section 2: Furthermore he is obliged to behave in accordance with the provisions enacted by order of or pursuant to state decree for public service in general or for the department to which he belongs.

Article 37: A civil servant is obliged to observe all that is laid down by order of or pursuant to state decree regarding his taking an oath or making a solemn affirmation.

Article 38: Obligation to observe secrecy. A civil servant is obliged to observe secrecy of all that has come to his knowledge during the exercise of his function –including additional functions-, in so far as this obligation ensues from the nature of things or was expressly imposed upon him.

Article 41 section 1: Working hours. A civil servant is obliged to carry out the work arising from his functions during the working hours applicable to him as laid down by order of or pursuant to state decree.

Article 43: The use of goods belonging to the State. Civil servants are forbidden to use goods belonging to the State and intended for the service contrary to their intended purpose.

Article 44:

Accepting rewards. Civil servants are forbidden to stipulate or accept rewards for interference or work relating to the service from third parties in whatever form and under whatever name, without permission of or by the competent authorities.

Article 20: Government Accounts Act: All civil servants are forbidden to accept work, deliveries, or transports for the State, to act as guarantor of or take part in such, either directly or indirectly.

- **Instructions for Police Officers** (Bulletin of Acts and Decrees 1972 no. 82): Herein are contained the rules of conduct for police officers.

Act Legal Status of Military officers. (Bulletin of Acts and Decrees 1996 no. 28): This Act contains some general rules of conduct for military officers.

- The standards of conduct that may apply to **the President of Suriname, the Vice-President, the Ministers and the members of the National Assembly of Suriname** is the oath taken or the solemn affirmation made by them on accepting the office, as laid down in the respective articles 93, 125 and 65 of the Constitution of Suriname.
- **Article 54 f Constitution: Holders of political appointments** are obliged to carry out their duties in the public interest.
- For the **members of the Judiciary** of Suriname there are some standards of conduct in the **Judiciary Organization Act:**

namely, article 10 concerning the oath taken or the solemn affirmation made.

Article 18: A judicial officer shall not consort with the parties to a dispute, with their authorized representatives or with their counsels about the dispute brought before him or a dispute of which he knows or suspects that it will be brought before him, neither directly nor indirectly, in separate conversations, nor shall he accept separate instructions or documents from them.

Article 21: The members of the Judiciary are obliged to observe secrecy regarding the emotions uttered in chambers about the cases discussed there.

b. Are there mechanisms to enforce compliance with the above standards of conduct?

Yes there are:

The Personnel Act: the provisions regarding disciplinary punishments, relief of duties, discharge from office, suspension and dismissal.

Article 34 of the Government Accounts Act: All civil servants who, without being accountable in the matter, directly or indirectly cause damage to the State by committing unlawful acts or by omitting to give the care which they are obliged to give, shall compensate for that damage.

- **Article 140 Constitution:** Those who hold office shall be liable to trial before the Court of Justice, even after their retirement, for punishable acts committed in the discharge of their official duties. Proceedings are initiated against them by the Procurator General after they have been indicted by the National Assembly in a manner to be laid down by law. This Act has been passed and is called the Indictment of Political Office Holders Act
- **Article 54 e Constitution:** Those who hold political office shall be liable in civil and in criminal law for their acts and omissions.
- **Ministerial Responsibility Act**
Among other things Article 3 of this act penalizes by imprisonment of three years a minister who co-signs state decisions, resolutions, orders, knowing that by doing so the Constitution and other statutory regulations are breached.

The Penal Code: in particular the title regarding serious offenses committed by civil servants while in office.

; article 69 means an increase of the punishment by 1/3 when a civil servant violates a special official duty by committing an offense or if he uses power, occasion or means provided to him on account of his position when committing the offense.

; article 428 makes punishable the judge who accepts a gift or promise knowing that it is given to him in order to influence the decision of a case submitted to his judgment. This offense is punishable by not more than nine years imprisonment.

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

Statistical information is not available. However, it is known that the Public Prosecutions Department has already successfully brought a few criminal cases before the court of civil servants who have acted in violation of their official duty. Currently there is a criminal case involving an ex political office holder, namely a minister, who has committed punishable acts during the exercise of his office.

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?

Yes, there are;

- **The Personnel Act:**

• **Article 57 section 1:** A civil servant is suspended by operation of law as soon as he holds the office of minister.

• **Article 69 section 1:** A civil servant is discharged when he marries, if by doing so a degree of family relationship results which, pursuant to a law, could exclude him from an appointment in his function.

• **Article 69 section 4:** A civil servant may be dismissed on account of insufficient safeguards for reliability if he/she:

a. is either a member of an association about which it was decided by state decree that its membership may endanger or cause damage to the performance of the official duties, in

view of the goals that the association aims at and the means it employs to achieve these goals.

b. or in any way renders his/her cooperation or support to an association as referred to in sub a or to an action organized by such an association.

- **The Constitution**

• **Article 68 section 2:** Membership of the National Assembly is incompatible with the office of Minister or Under-Minister

• **Article 94** : the President and the Vice-President shall not hold

other political and administrative offices in the civil service, shall not

fulfill functions in trade and commerce or labor unions and shall not

practice any other profession.

• **Article 95** : The President and the Vice-President may, neither

directly nor indirectly, participate in any enterprise nor act as guarantor thereof, which is based on an agreement for profit or gain made with the State or with a part thereof. They may hold no money claims, except for government bonds, against the State.

• **Article 96** :The President and the Vice-President may, neither

directly nor indirectly participate in any concession or enterprise of any nature established or operating in Suriname.

• **Article 97** : The President may not be married, related by blood

or by marriage up to the second degree to the Vice-President, the Ministers, the Under-Ministers, the members of the Council of State

and the chairman, the deputy-chairman and the members of the institutions in charge of the supervision and control of the expenditure of state finances.

Judiciary Organization Act

• **Article 7** : Incompatible with the paid membership of the judiciary is:

- the profession of attorney or notary.
- conducting trade, small business or practicing a profession, even if this is done in the name of the spouse or by an intermediary.
- any paid public job.

• **Article 8** : With the commencement of the membership of the judiciary the appointed person is presumed to have

renounced all positions that are incompatible with this membership.

• **Article 9** : Relatives related by blood or by marriage up to the third degree shall not simultaneously hold a position in or at the High Court or at the same district court.

b. **Are there mechanisms to enforce compliance with the above standards of conduct?**

Yes there are mechanisms.

\ For civil servants there are provisions in the Personnel Act, to the effect that they can be dismissed in cases of conflicts of interest.

For judicial officers article 8 of the Judiciary Organization Act states that when a member of the judiciary accepts a position or duty that is incompatible with his judicial position, he ceases to be a member of the judiciary by operation of law.

- **Article 74 of the Constitution sub a:** The National Assembly may decide to have the President and the Vice-President step down prematurely.
- **Article 79 Constitution :** The National Assembly has the right to investigate, which is yet to be regulated by law.

C. 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 statistical information available.

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?**

Yes there are;

Article 43 of the Personnel Act: Civil servants are forbidden to use goods belonging to the State and which are intended for the service contrary to their intended purpose.

b. Are there mechanisms to enforce compliance with the above standards of conduct?

Yes there are:

Article 34 of the Government Accounts Act: All civil servants who, directly or indirectly, cause damage to the State by committing unlawful acts or by omitting to give the care which they are obliged to give, shall compensate for that damage.

Article 423 of the Penal Code: Punishable by imprisonment for not more than six years is the civil servant or other person temporarily or permanently charged with a public function, who has intentionally embezzled money, gold bullion or marketable securities under him during his duties or who allows that it is taken or embezzled by someone else, or who is an accessory to the principal to that end.

- **Article 381 of the Penal Code:** makes punishable by imprisonment for not more than three years the misappropriation of goods which the perpetrator has obtained otherwise than by criminal means and this punishment may be increased by 1/3 if committed by a civil servant.
- **Article 414 of the Penal Code:** Destruction of goods belonging to another person. This punishment can also be increased with 1/3 if committed by a civil servant who violates a special official duty in this way.

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

No statistical information is available. However, the Public Prosecutions department has already successfully brought before the court a few criminal cases of civil servants who had misappropriated funds and/or goods of the State which they had in their care for the performance of their duties.

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.

There are no standards of conduct with regard to this in our present law.

The draft Anti-Corruption Act contains such a provision.

b. Are there mechanisms to enforce compliance with the above standards of conduct?

The draft Anti-Corruption Act states that if a civil servant fails to report corruptive acts, this constitutes an offense and is punishable by imprisonment.

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

No statistical information is available.

Chapter Two

Systems for registering income, assets and liabilities

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?
No regulations

b. No results obtained, because there are no regulations on this matter

c. There are provisions in the draft Anti-Corruption Act of Suriname concerning this aspect.

Chapter Three Oversight Bodies

a. Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions in article 111 [1], and [4]?

Yes, Suriname has those oversight bodies. These are:

1. The Public Prosecutions Department, in accordance with Article 145 of the Constitution: The Public Prosecutions Department, with the exclusion of all other institutions, is responsible for investigations and is charged with the prosecution of all punishable acts.

2. The Audit Office of Suriname, in accordance with Article 149 of the Constitution: An institution shall have the task to supervise the expenditure of state finances, as well as to control the management of government funds in the broadest sense.

The justification as well as the effectiveness of the expenditure and management of the state finances shall be supervised and controlled.

3. The Government Audit Department. In accordance with Article 2 of the state decree of 28 December 1972, the aim of this department is to audit the administration of the general department and the tasks of the Government departments, etc. and pursuant to Article 12 of the Job Description of Departments Decree 1991, one of its tasks is the general management of all state funds and supervision of the spending thereof.

4. Committee to Prevent and Combat Corruption: pursuant to the draft Anti-Corruption Act This Committee has to fulfill a task with regard to the financial disclosure systems.

Chapter Four

Participation by Civil Society [art. 111, 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 organisations in efforts to prevent corruption.

Yes there are;

The Constitution: **Article 6:** The social objectives of the state shall aim at

community in

national,

guaranteeing the participation of the
political life among other things, through
regional and sectoral participation.

Article 19: Everyone has the right to freedom of opinion and expression through the printed press

or

other means of communications, subject to the responsibility of all as set forth in the law.

Article 46: The State shall create the conditions

which

of
in
by
Surinamese
democratic

underlie the education of citizens who are capable participating in a democratic and effective manner the development process of the nation.

Article 52: The political democracy is characterized the participation and representation of the people, which shall express itself through the participation of the people in establishing a political system, as well as in their participation in legislation and administration aimed at the maintenance and expansion of this system.

b. No pertinent statistical information available.

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?

Article 158 Constitution: Everyone shall have the right to be informed by the agencies of public administration on the progress in cases under consideration in which he has a direct interest, and or final decisions taken with regard to him. Interested parties shall have the right to submit to the court for reassessment any final and enforceable act by agencies of public administration, which is believed to be unlawful.

b. No pertinent statistical information available.

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?]
No mechanisms in place.

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.

Yes there are: Article 52 of the Constitution: The political democracy is characterized by the participation and representation of the Surinamese people, which shall express itself through the participation in legislation and administration aimed at the maintenance and expansion of this system. The political democracy shall further create the condition for the participation of the people in general and free elections by secret ballot for the composition of the representative organs and of the Government

b. No statistical information available

4. Participation mechanisms for the follow-up of 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 follow-up of public administration?

Yes there are:

Article 22 of the Constitution: Everyone has the right to submit written petitions to the competent authority. The law regulates the procedure for the treatment thereof.

b. No statistical information available

Chapter five Assistance 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 foreign states that seek assistance in the investigation and prosecution of acts of corruption.

In title VIII of the Code of Criminal Procedure as well as in the **Act of 5 September 2002**, directing further amendment of the Code of Criminal Procedure, rules are given with regard to this form of **international legal**

aid. Article 467 section 2 states that requests for legal aid are considered to be requests to perform acts of investigation or to render cooperation for that purpose, the sending of documents, files or pieces of evidence, or giving information, or serving orders or giving notice or disclosing information to third parties.

Article 469 states that the Procurator-General shall make an immediate decision concerning the action to be taken on the request in the interest of a speedy and effective conclusion.

Article 470 states that insofar as the request is based on a convention, the desired action will be taken as far as possible and that in cases concerning a reasonable request that is not based on a convention, as well as in cases where the applicable convention does not make compliance obligatory, the request will be granted, unless the compliance contravenes a statutory provision.

Article 473 states that the Procurator-General shall submit to the examining magistrate a request from a foreign judicial authority that is capable of compliance and based on a convention if it purports to hearing persons who are not willing to appear voluntarily and make the required statement or if there is an explicit request for a sworn statement or a statement made in the presence of a judge.

b. Has your government presented or received requests for mutual assistance under the Convention? No.

2. **Mutual technical cooperation**

a. Does your country have mechanisms to permit the widest measure of mutual cooperation with other State Parties regarding the most effective ways and means of preventing..... acts of corruption.

Article 17 of the Constitution: the Republic of Suriname promotes solidarity and collaboration with other people in the fight for social progress. The Republic of Suriname promotes participation in international organizations with the objective of establishing peaceful co-existence, peace and progress for humanity.

In addition the Government of Suriname assumes that in order to effectively combat organized crime, which is trans-boundary, international cooperation is a requirement. For that purpose Suriname has signed bilateral anti-drugs conventions with Guyana, Brazil and Venezuela, and a treaty for mutual cooperation and assistance with regard to the fight against drugs and law enforcement has been signed with the United States of America.

b. Has your government made requests to other State Parties or received requests from them for mutual technical cooperation under the Convention? No.

c. No: Suriname has not developed technical cooperation programs on aspects that are referred to in the Convention.

Chapter Six Central Authorities

1. Designation of Central Authorities

a. The Central Authority for the purpose of channeling requests for mutual assistance is the Attorney General.

b. The Central Authority for the purpose of channeling requests for mutual technical cooperation is the Minister of the department of Justice and Police.

c. The Central Authority for Mutual Assistance is at present the Acting Attorney General of Suriname.

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The Central Authority for Technical Cooperation is the Minister of Justice and Police.

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2. Operation of Central Authorities

The Central Authority has not made or received requests for assistance and cooperation under this Convention.

The Central Authority has the necessary resources to enable it to make requests for assistance and cooperation, but not to receive requests for assistance and cooperation under the Convention.