

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

FINAL REPORT

(Adopted at the September 13, 2013 plenary session)

SUMMARY

This report contains a comprehensive review of the implementation in Chile of Article III, paragraph 9, of the Inter-American Convention against Corruption, covering “oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts,” which was selected by the MESICIC Committee of Experts for the fourth round; of the best practices reported by those bodies; and of the follow-up of the implementation of the recommendations formulated to Chile in the First Round.

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

The review was carried out taking into account Chile’s response to the questionnaire, information provided by civil society organizations, information gathered by the Technical Secretariat, and, as a new and important source of information, the on-site visit conducted between April 8 and el 10, 2013, by the members of the review subgroup, comprising El Salvador and Honduras, with the support of the Technical Secretariat. During that visit, the information furnished by Chile was clarified and expanded and the opinions of civil society organizations, professional associations, and academics on issues of relevance to the review were heard. This provided the Committee with objective and complete information on those topics.

The review of the oversight bodies was intended, in accordance with the terms of the methodology for the Fourth Round, to determine whether they have a legal framework, whether that framework is suitable for the purposes of the Convention, and whether there are any objective results; then, taking those observations into account, the relevant recommendations were issued to the country under review.

The oversight bodies in Chile analyzed in this report are: the Public Prosecution Service (*Ministerio Público* - MP), the Office of the Comptroller General (*Contraloría General de la República* - CGR), the Judicial Branch (*Poder Judicial* - PJUD), and the Financial Analysis Unit (*Unidad de Análisis Financiero* - UAF).

Some of the recommendations formulated to Chile for its consideration in connection with the aforementioned bodies are aimed toward objectives, such as the following:

With respect to the MP, make it possible for members of the public to file on-line complaints on the functions that the MP performs; strengthen the MP’s complement of staff; establish a specialized anticorruption prosecution office; permit the use of electronic surveillance and undercover operations for detecting and investigating acts of corruption; analyze the causes that could be influencing the application of judicial outcomes other than a final judgment with respect to offenses committed by public officials; and prepare statistics on the prescription of corruption investigations pursued by the MP.

As regards the CGR, continue the process of harmonization of the standards of SICOGEN with international government accounting standards; continue to implement information technology projects to facilitate its work; raise awareness about the “*Contraloría y Ciudadano*” portal; strengthen its accountability mechanism with greater citizen participation; and give it a greater say and more autonomy in determining its budgetary resources and their management.

As to the PJUD, adopt pertinent legal provisions to provide it with the human resources that it needs to perform its functions properly, especially those connected with trying acts of corruption; strengthen the programs imparted by the Judicial Academy with modules on ethics, integrity, and transparency; grant it greater financial autonomy; advance implementation of the Strategic Plan 2011-2015; analyze the possible causes leading to the number of cases involving such crimes that end in a dismissal with prejudice or that are closed on the other grounds being higher than the number of cases that end in a judgment; and prepare statistics on judicial proceeding concerning all acts of corruption and on proceedings initiated or admitted with respect to crimes committed by public servants in the performance of their official duties.

Concerning the UAF, strengthen its training plans with courses or modules on investigation of corruption-related offenses; strengthen the dissemination programs and activities that it implements with panels or other specific activities on prevention of corrupt practices; implement, where appropriate, the different stages of the participatory public accountability reporting process; and strengthen the way in which it prepares and keeps its statistics with precise data on the number of STRs recorded each year in connection with corruption-related predicate offenses.

The best practices on which Chile supplied information are, in brief, the *Semáforo Municipal* [Municipal Traffic Light], which consists of the publication on the CGR website of the status of compliance by municipalities with their monthly obligation to send budgetary and accounting information to the CGR; the CGR’s *Contraloría y Ciudadano* [Comptroller and Citizen], *Unidades de Control Interno* [Internal Control Units], and *Asociativismo Regional y Local* [Regional and Local Partnership] portals, by which the CGR can, respectively, receive on-line complaints regarding administrative irregularities and incorporate oversight suggestions from citizens in the audit planning process; exercise technical coverage of the audit or internal control units supervised entities; and consolidate information, the regulatory framework, and relevant case law on corporations governed set up in partnership with regional and local governments. Publication and updating of the “Public Agendas” of senior CGR officials and disclosure by the latter of audit reports, and, *El Presidente Responde* [The President Answers] an electronic form on the PJUD’s website that members of the public can use to submit to the President of the CSJ complaints, queries, and suggestions regarding the workings and quality of assistance received at the country’s various courts. Also, the quarterly publication of the administrative sanctions ordered against regulated entities for noncompliance with money-laundering regulations, the publication of categories of PEPs and of a template form for declaring such relationships, the ongoing production of an Official’s Probity Manual that defines administrative responsibilities and the grounds for post disqualifications and incompatibilities, and the set of recommendations for strengthening the money-laundering preventive measures implemented by the sectors regulated by the UAF.

With regard to follow-up on the recommendations formulated to Chile in the First Round and with respect to which, the Committee, in the Second and Third Round reports, found required additional attention, based on the methodology for the Fourth Round and bearing in mind the information provided by Chile in its response to the questionnaire and during the on-site visit, a determination was made as to which of those recommendations had been satisfactorily implemented, which required additional attention, which should be reframed, and which were no longer valid. A list of those still pending was also prepared, and has been included in Annex 1 of the report.

Of note in terms of progress made in implementing those recommendations are the various opinions issued by the CGR that address the regulations on conflict of interest and their application to various public authorities; the draft Integrity in Public Office Law, which is intended to consolidate the regulations in force on declarations of assets and interests, and their disclosure; the creation in 2009 of the Transparency Council; the promulgation of the Law on Associations and Citizen Participation in the Conduct of Public Affairs (Law 20.500); adoption of the “Citizen participation policy in the framework of co-responsibility” and Presidential Orders Nos. 002 of 2011 and 005 of 2012 on citizen participation in the conduct of public affairs and open government .

Some of the recommendations made to Chile in the first round that remain pending include: to strengthen provisions on standards of conduct aimed at preventing conflicts of interest after public servants leave office; regulate the disclosure of declarations of assets in order to optimize systems for reviewing their content; and strengthen existing consultation mechanisms and establish other additional ones in order to strengthen citizen participation, especially in anticorruption efforts.

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

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF CHILE OF THE
CONVENTION PROVISION SELECTED FOR REVIEW IN THE FOURTH ROUND, AND
ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO THAT COUNTRY
IN THE FIRST ROUND^{1/}**

INTRODUCTION

1. Contents of the Report

[1] This report presents, first, a comprehensive review of the implementation in the Republic of Chile of the provision of the Inter-American Convention against Corruption (hereinafter “the Convention”) selected by the MESICIC Committee of Experts for the Fourth Round. That provisions appears in Article III (9) of the Convention, pertaining to “Oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts.”

[2] Second, the report will examine the best practices that the Republic of Chile has voluntarily expressed its wish to share in regard to the oversight bodies under review in this Report.

[3] Third, in accordance with the decisions adopted by the Committee of Experts at its Eighteenth Meeting, in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties to the MESICIC, this report will address the follow-up of implementation of the recommendations that the Committee of Experts of MESICIC formulated to the Republic of Chile in the First Round and that it deemed to require to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which may be consulted at the following web page: <http://www.oas.org/juridico/english/chl.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, the Republic of Chile ratified the Inter-American Convention against Corruption on September 22, 1998, and deposited the respective instrument of ratification on October 27 of that year.

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

I. SUMMARY OF INFORMATION RECEIVED

1. Response of the Republic of Chile

[6] The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Republic of Chile, in particular, from the General Government Internal Audit Council (hereinafter CAIGG), which was evidenced, *inter alia*, in the Response to the Questionnaire, in the constant willingness to clarify or complete its contents, and in the support for the on-site visit,

1. This Report was adopted by the Committee in accordance with the provisions of Article 3(g) and 25 of its Rules of Procedure and Other Provisions, at the plenary session held on September 13, 2013, at its Twenty-second Meeting, held at OAS Headquarters, September 9-13, 2013.

to which the following paragraph of this report refers. Together with its response, the Republic of Chile sent the provisions and documents it considered pertinent, which are available at: http://www.oas.org/juridico/spanish/mesicic4_chi.htm

[7] The Committee notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-site Visits*^{2/}. As members of the preliminary review subgroup, the representatives of El Salvador and Honduras conducted the on-site visit from April 8 – 10, 2013, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this report, and the agenda of meetings is attached thereto, in keeping with provision 34 of the above-mentioned *Methodology*.

[8] For its review, the Committee took into account the information provided by the Republic of Chile up to April 10, 2013, as well as that furnished and requested by the Technical Secretariat and the members of the review subgroup, to carry out its functions in keeping with its *Rules of Procedure and Other Provisions*; the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round*, and the *Methodology for Conducting On-Site Visits*. http://www.oas.org/juridico/english/mesicic_docs_en.htm

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

[9] The Committee also received, within the time limit set in the schedule for the fourth round, a document from the civil society organization *Chile Transparente* (National Chapter of Transparency International), which was presented by that organization in accordance with Article 34(b) of the Committee's Rules.^{3/}

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

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

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

[11] The Republic of Chile has a set of oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts, among which the following are highlighted: the Public Prosecution Service (*Ministerio Público*), the Office of the Comptroller General (*Contraloría General de la República*), the Judicial Branch, the Financial

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

3. This document was received by email on December 12, 2012 and is available at: www.oas.org/juridico/PDFs/mesicic4_chl_resp_sc.pdf

Analysis Unit (*Unidad de Análisis Financiero*), and the Superintendency of Securities and Insurance (*Superintendencia de Valores y Seguros*).

[12] The following is a brief description of the purposes and functions of the four bodies selected by the Republic of Chile that are to be examined in this report.

[13]– Public Prosecution Service (hereinafter MP). The autonomous, hierarchical, constitutionally recognized body responsible for the sole direction of criminal investigations to ascertain the punishable participation or innocence of the accused. The MP is also responsible for the public prosecution of criminal offenses as prescribed by the law and for adopting measures for the protection of victims and witnesses.

[14]– Office of the Comptroller General (hereinafter CGR). The constitutionally recognized autonomous body that exercises oversight of the legality of government acts, inspects revenues and the investment of funds of the Treasury, municipalities, and such other organs as the law indicates; as well as examining and assessing the accounts of persons responsible for the assets of those entities. It also keeps the General Accounts of the Nation.

[15]– Judicial Branch (hereinafter PJUD). The constitutionally recognized and functionally independent body that, through the courts of justice that comprise it, takes cognizance of and settles civil and criminal suits, and enforces their outcomes.

[16]– Financial Analysis Unit (hereinafter UAF). A decentralized public entity with its own legal personality and capital that is linked to the Office of the President of the Republic through the Ministry of Finance. Its task is to prevent money laundering and financing of terrorism in Chile by conducting financial intelligence operations, issuing regulations, and monitoring compliance with the latter.

1. PUBLIC PROSECUTION SERVICE

1.1. Existence of a legal framework and/or other measures

[17] The Public Prosecution Service (MP) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[18] The MP is an autonomous, hierarchical, non-judicial body responsible for the sole direction of criminal investigations of facts that constitute crimes in order to establish the guilt or innocence of the accused and, where appropriate, institute public criminal proceedings in the manner prescribed by law.

[19] Its structure and functions are governed by Chapter VII of the Constitution,^{4/} as well as Law 19.640 (Organizational Law of the MP)^{5/} (hereinafter LOCMP) and the Code of Criminal Procedure (hereinafter CPP), particularly Articles 77 and 78.^{6/}

[20] In order to carry out its functions pursuant to the provisions of Article 12 of the LOCMP, the MP currently consists of a National Prosecution Office, 18 regional public prosecution offices, and more than a hundred local public prosecution units, which function as operational units of the

4. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_constitucion.pdf

5. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley19640.pdf

6. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_cod_proc.pdf

regional public prosecution offices. The National Prosecution Office, which is the highest management and administrative level, consists of the National Public Prosecutor and a variety of specialized and administrative divisions and units, including the Specialized Anticorruption Unit. The National Prosecution Office also has an Office of the National Executive Director, which, in addition to exercising permanent control over budget execution and appropriate use of MP resources, organizes and supervises the administrative divisions of the National Prosecution Office based on general instructions issued by the institution's highest officer.^{7/} According to the response of the country under review to the questionnaire,^{8/} the actions of the MP are guided by the principles of formality (Article 54 of the CPP), legality (Article 166 of the CPP), objectivity (Article 3 of the LOCMP), efficiency (Articles 39, 77, 78, and 80 of the LOCMP), transparency and integrity (Articles 8 and 9 of the LOCMP), and responsibility (Articles 2, 45, and 53 of the LOCMP), which provide the framework for the performance of its functions.

[21] With respect to the Specialized Anticorruption Unit (hereinafter UNAC), in the course of the on-site visit, representatives of the MP offered a presentation on the Unit's structure and the functions that it performs in terms of advisory services,^{9/} interagency coordination, international measures, and training. As regards the first of those functions, the representatives of the MP said that they consist of advisory services provided to: the National Public Prosecutor in the preparation of internal regulations with respect to corruption offenses; specialized public prosecutors that investigate offenses that affect state property as well as those committed by civil servants in the exercise of their official duties; and, lastly, in so-called "high-priority" investigations in which it supplies detailed information to the National Public Prosecutor. The UNAC also jointly tackles communication strategies, analyzes cases, and participates and appears in oral proceedings in superior courts in conjunction with public prosecutors; it proposes investigative procedures and courses of action, prepares financial and bookkeeping reports, assists in taking statements from accused parties and witnesses, arranges expert examinations, advises in the assessment of evidence, and take part in seizures and other investigative procedures, among other responsibilities.

[22] As regards the UNAC's interagency coordination efforts, the representatives of the MP alluded to its work in that regard with the CGR, the State Defense Council, the *Carabineros*, the Investigations Police, the UAF, *ChileCompra* (the government procurement service), the Internal Tax Service, and the CAIGG, among other state organs, in which public prosecutors and entities mutually support each other's efforts to obtain information relevant to court proceedings, for example. During the on-site visit, representatives of the MP also mentioned the functions of the UNAC with regard to dissemination activities, which include quarterly newsletters, news publications, intranet and web-based updates, model correspondence, a checklist of basic procedures and investigation support guides, training activities for public prosecutor specializing in corruption offenses and other agencies that take part in the investigation of such offenses with respect to substantive and procedural criminal law.

[23] As regards mechanisms for settling possible conflicts of jurisdiction with other organs or authorities, in its response to the questionnaire,^{10/} and in the course of the on-site visit, MP representatives said that such conflicts are only possible between the MP and a criminal judge or a magistrate with jurisdiction over criminal offenses under the old inquisitorial criminal justice system

7. See organizational chart of the MP at: www.fiscalia.dechile.cl/Fiscalia/quienes/organigrama.jsp

8. See response of the MP to the questionnaire for the fourth round, pgs. 4-7, available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_publico.pdf

9. Available at: http://www.oas.org/juridico/ppt/mesicic4_chl_uni.ppt

10. See response of the MP to the questionnaire for the fourth round, pgs. 4-7, *supra* note 8.

regarding the authority to investigate a particular crime committed prior to the entry into force of the adversarial criminal justice system, owing to the gradual implementation of the new system in Chile. In that regard, Transitory Article 8 of Law No. 19.665 which reformed the Courts Organizational Code provides that it is incumbent upon the Court of Appeals with jurisdiction in the territory of a court with competence for criminal matters to settle any disputes that arise between the latter and the MP regarding the authority to investigate a particular punishable deed.^{11/} In the event that this provision cannot be applied, the Supreme Court of Justice (hereinafter CSJ) will settle the matter.

[24] As regards the scope of the above functions of the MP which are mainly described in Article 1 of the LOCMP, Article 2 of the same law provides that the MP shall perform its procedural functions through any of the public prosecutors intervening therein in accordance with the law, be it the National Public Prosecutor or regional public prosecutors, the latter being supported by assistant public prosecutors, who exercise their functions throughout the country's territory, without prejudice to the fact that they might have been assigned for administrative reasons to a particular region or locality in the country.

[25] Article 83, paragraph 4 of the Constitution envisages an exception to the scope of authority of the MP, indicating that the prosecution of publicly actionable criminal offenses and investigations of criminal deeds shall be conducted by the organs and individuals established in the Military Code of Justice in the case of proceedings that fall under the cognizance of military tribunals.

[26] Furthermore, in its response to the questionnaire,^{12/} the country under review mentioned as an exception to the exercise of the functions performed by assistant public prosecutors the provisions contained in Article 18 of the LOCMP, which in exceptional circumstances empowers the National Public Prosecutor *ex officio* to take over the conduct of an investigation and public prosecution of particular acts believed to constitute criminal offenses when the office of the persons involved as accused or victims makes it necessary, in order to ensure that those tasks are performed with absolute independence and autonomy. For its part, Article 19 of the above law states that the National Public Prosecutor, likewise *ex officio* and in exceptional circumstances, may order a particular regional public prosecutor to take over the investigation and public prosecution of a criminal offense when the seriousness of the crime or the complexity of its investigation warrants it.^{13/}

11. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_cod_org.pdf

12. See response of the MP to the questionnaire for the fourth round, pgs. 4-7, *supra* note 8.

13. On August 12, 2013, the State under review furnished information indicating: *“Although Art. 18 of the LOCMP does not specifically refer to the offices of persons involved in an investigation... an interpretation of the provision indicates that they are people who, by reason of their positions – derived from the posts held – could compromise the independence and autonomy of the investigation; it falls to the National Public Prosecutor to determine when such a situation could exist, in that the simple presence of persons with given offices does not trigger LOCMP Art. 18. Regarding the determination of objective criteria for understanding the seriousness of the crime and the complexity of its investigation, enabling the activation of LOCMP Article 19, note again that the situation is assessed on a case-by-case basis by the National Public Prosecutor, with its application, as expressly stated in the LOCMP, an exclusive power of the National Public Prosecutor; this is indicated by the history of the passage of Law 19.640 (LOCMP), which states that this power is to be exercised on an ex officio basis by the National Public Prosecutor and not at the request of an interested party, and without the need for a prior hearing by the General Council.”* *“These provisions are an after-effect of what is known as ‘personal jurisdiction,’ which is one of the elements considered by the rules of absolute competence to determine the hierarchically appropriate court for dealing with a given matter. Personal jurisdiction is that element of the absolute competence of courts that is based on the intervention in a given proceeding of a person in authority: in other words, who holds a given position as provided for in the law, meaning that the matter will be heard by a higher court than the one that would have natural jurisdiction. This personal jurisdiction was not established for the benefit of the person covered by it, but rather for the counterpart, holding that a higher court would be more independent in judging matters in which such persons or authorities were involved. The people were identified in Article 50 of the Organic Courts Code. This jurisdiction applied to civil and*

[27] With respect to decision-making, Article 2 above provides that public prosecutors shall direct investigations and prosecute publicly actionable offenses in the cases which they have been assigned with the independence, autonomy, and responsibility prescribed by the LOCMP and, to that end, may request advisory services and collaboration from specialized units of the National Prosecution Office, though guidance provided is not mandatory or binding on them. In that regard, it is worth noting that paragraph 2(a) of Article 17 of the LOCMP empowers the National Prosecution Office to issue such general instructions as it considers necessary to ensure that investigations of punishable offenses and their prosecution are appropriately conducted; however, it may not issue instructions or order procedures to be carried out or omitted in particular cases, save where the exception contained in article 18 of the LOCMP cited in the preceding paragraph applies.

[28] As regards recourse to review of decisions adopted by the MP, whether internally or before other organs or external authorities, Article 33 of the LOCMP empowers parties in proceedings to submit written complaints to the regional public prosecutor concerning the performance of an assistant public prosecutor in accordance with the Code of Criminal Procedure. Furthermore, the CPP envisages other grounds that allow the parties in a criminal proceeding to challenge certain decisions of the MP.^{14/}

[29] The National Public Prosecutor is the head of the MP and responsible for its workings. Article 15 of the LOCMP sets out the procedure for his or her appointment, which involves all three branches of government. The CSJ announces a public competition and selects a shortlist of five candidates whom it proposes to the President of the Republic.^{15/} The President then chooses one of the candidates and presents them to the Senate, which approves or rejects them. In the event of the latter, the procedure is repeated with the other candidates on the shortlist until one is agreed upon. Article 85 of the Constitution as well as Article 15 itself provide that the National Public Prosecutor shall hold office for eight years and may not be reappointed for the following term.^{16/}

[30] With respect to their removal from office and the competent bodies to hold them responsible for their actions and deciding on their continued tenure in that office, Article 89 of the Constitution and 53 of the LOCMP provide that the National Public Prosecutor and regional public prosecutors may only be removed by the CSJ at the request of the President of the Republic,^{17/} the House of Deputies, or 10 of its members, be it for incapacity, misconduct, or manifest negligence in the performance of their duties.

[31] As regards the way in which the human resources needed for the MP's operations are identified, Article 67 of the LOCMP provides that the National Public Prosecutor is responsible for establishing how the institution's employees are hired and terminated. For its part, Article 69 sets out

criminal matters but, following the criminal procedure amendments, was restricted to civil matters (Law 19.665). "Currently, the way in which the MP's Organic Law covers this kind of 'jurisdiction' states that it is no longer a prerogative of authorities who may be charged with a crime or be victims thereof, but rather a decision presented to the head of the Public Prosecution Service, who must determine on a case-by-case basis whether there would be a loss of autonomy in the investigation requiring him to personally assume the investigation. In other words, Chile's legislature has already analyzed the possible elimination of personal jurisdiction in criminal matters and found it unnecessary to repeat a list of authorities in the Law of the Public Prosecution Service."

14. See examples in Articles 109, 183, 256, and 258 of the CPP.

15. See requirements to be appointed National Public Prosecutor in Article 14 of the LOCMP.

16. As regards regional public prosecutors, they are appointed by the National Public Prosecutor from a shortlist of three candidates proposed by the Court of Appeals in the respective region, following a public competition (Article 29 of the LOCMP), based on the requirements set out in Article 31 of the LOCMP

17. The National Public Prosecutor may also request the removal of regional public prosecutors (Article 53 of the LOCMP).

the general requirements necessary for their entry, while Article 70 provides that the staff of the MP, with the sole exception of those in trust positions, shall be hired by means of a public competition and only in exceptional cases and on the basis of a resolution by the National Public Prosecutor may other hiring methods be used, which shall in all cases ensure appropriate transparency and objectivity, based on the merits and suitability of the applicants. The “*Fiscalía Transparente*” section of the MP’s website offers information on, *inter alia*, the MP’s complement of staff, their pay according to category and grade, the performance incentive system, their allocation by zones, the staff structure and employee payroll according to type of contract, and current vacancy competitions.^{18/}

[32] Specifically in relation to public prosecutors, Article 14 of the LOCMP provides that they are designated by the National Public Prosecutor from a shortlist of three candidates proposed by the Regional Prosecutor, which candidates must first have met the requirements described in Article 42 of the LOCMP and taken part in a public competition as stipulated in Articles 16 *et seq.* of the Staff Rules for Prosecutors of the MP.^{19/}

[33] As regards the regime of prohibitions, disqualifications and incompatibilities for public prosecutors and employees of the MP, for the former they are described in Articles 54 to 65 of the LOCMP and 33 to 40 of the Staff Rules for Prosecutors of the MP, while for the latter they are contained in Articles 34 to 39 of the Staff Rules for Employees of the MP.^{20/} As for termination and tenure, assistant public prosecutors and employees of the MP are governed by the provisions of Article 66 of the LOCMP, which states that the relationship of employment between the institution and those who serve as public prosecutors or employees therein is regulated by the provisions of that Law and the regulations issued in accordance with same. Article 66 also states that other laws envisaged in said article apply on a supplementary basis. In that connection, Articles 43 of the LOCMP and 102 of the Staff Rules for Prosecutors of the MP set out the grounds for termination of public prosecutors, while Article 91 of the Staff Rules for Employees of the MP contains the grounds for termination of the employment contract of MP employees.

[34] The MP has a series of manuals and regulations, such as the Regulations on the Functions of Chief Prosecutors and Administrators of Prosecution Units of the MP,^{21/} which are published on the institution’s website and describe the functions of public prosecutors and the staff under the supervision.^{22/} In addition, in exercise of his powers, the National Public Prosecutor has issued various general instructions that he has considered necessary for the proper performance of the work of direct in criminal investigations and criminal prosecutions, as well as on victim and witness protection, which are also published on the MP’s website.^{23/}

[35] As regards training, during the on-site visit, representatives of the MP offered a presentation on the “Centralized Training Program,”^{24/} which is implemented by the National Training Unit of the Human Resources Department of the MP, in accordance with the Regulations on Training and Development for Prosecutors and Employees of the MP.^{25/} The program is based on an institutional curriculum and is a holistic process of continuous training courses that also includes other new courses wherever additional training needs are detected based on measurements of gaps in profiles for

18. See: <http://www.fiscaliadechile.cl/transparencia/GobiernoTransparente.htm>

19. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_pers.pdf

20. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_func.pdf

21. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_fun.pdf

22. See: http://www.fiscaliadechile.cl/transparencia/reglamentos_mp.htm

23. See: <http://www.fiscaliadechile.cl/Fiscalia/instructivos/index.do?d1=0>

24. Available at: http://www.oas.org/juridico/ppt/mesicic4_chl_prog.ppt

25. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_cap.pdf

given areas of expertise, subject to the availability of resources. The courses are imparted by internal trainers or facilitators who are recruited, selected, and provided with general and specialized training based on specific procedures. In that regard, the representatives of the MP underscored a number of aspects in the design and implementation of the relatively recently created MP Training Academy. They also provided information on the number of courses imparted and participants therein from 2009 to 2012, as well as describing the 57 modules and six curricula that currently comprise the program's overall syllabus in addition to the in-person and online courses planned for 2013, including information about their budget.

[36] As regards institutional strengthening and quality-improvement measures implemented, the MP adopted its Strategic Plan 2009-2015 through the Department of Management Studies, Evaluation, Control, and Development of the Office of its National Executive Director.^{26/} This document contains, in first place, an institutional strategic diagnostic assessment that sets out the guidelines, services and products, projects, and lines of action for fulfilling the objectives described in the Plan, which have to do with the effective and efficient conduct of criminal investigations, and improvement in user perception and satisfaction, promotion and implementation of adequate interagency coordination, and compliance with and development of the so-called Institutional Management Commitments (hereinafter CGI).

[37] During the on-site visit, MP representatives gave a presentation on the CGI,^{27/} explaining that, under the Strategic Plan and in accordance with the Improvement of the MP Prosecutor and Employee Performance Incentive System Law (Law No. 20.240),^{28/} the National Public Prosecutor proposes a CGI to the Ministry of Finance each year that sets out the institutional mission and medium- and long-term strategic objectives. Each CGI consists of priority areas (human resources, users and community, and organizational management), systems (recruitment and selection, promotion and development, performance evaluation, user information and assistance, information, and planning and management control), and annual management goals with their respective progress indicators, which are evaluated by an external entity.

[38] Furthermore, as part of the strategic projects contained in the Plan, the MP prepared a draft Strengthening Plan,^{29/} which is pending approval and seeks to bring about an increase in the number of employees and public prosecutors in order to deal adequately with the workload, maintain quality standards, and target, in particular, the prosecution of crimes with the greatest social impact.

[39] As regards implementation of modern systems or technologies to facilitate the performance of its work and the manner in which the general public is provided with information about their objectives, functions, proceedings and procedures, both in its response to the questionnaire,^{30/} and in the framework of the on-site visit, the MP informed that it has its website (www.fiscaliadechile.cl), the Prosecutor Support System (hereinafter SAF), and its General User Assistance Model, which includes the "Orientation, Protection, and Support Project" (hereinafter OPA) and the User Assistance and Information System (hereinafter SIAU).

[40] With respect to the SAF, in the course of the on-site visit, MP representatives mentioned that following the launch of the criminal procedural reform it became essential to have a tool with which

26. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_plan09-15.pdf

27. Available at: http://www.oas.org/juridico/ppt/mesicic4_chl_comp.ppt

28. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley20240.pdf

29. See: <http://www.fiscaliadechile.cl/planfortalecimiento/fortalecimiento.html>

30. See response of the MP to the questionnaire for the fourth round, pgs. 26 and 27, *supra* note 8.

to monitor and keep a prompt, efficient, and immediate record of all cases resulting from the commission of a suspected crime. As a result, they said, the SAF was created as a computerized system to support the work of investigation and subsequent criminal prosecution by means of different options and functions contained in the modules that comprise it, in particular those of reception, assignment, management, custody, queries and reports, privilege management, and interconnection.^{31/}

[41] Regarding the General User Assistance Model, the Technical Secretariat was informed that the MP's Victim and Witness Assistance Division, as part of the above Strategic Plan, is developing and implementing the Model with the aim of encouraging victims and witnesses to participate in criminal prosecutions and of providing quality attention to users by improving assistance systems. This model is composed of the OPA project and the SIAU system.

[42] As regards the OPA Project,^{32/} representatives of the MP said that it was gradually implemented throughout the country from 2008 onward and that its objective is "to guide" victims and witnesses that turn to the MP by providing them with relevant user information in accordance with their needs and the stage reached in the criminal proceeding; "to protect them" based on assessments of intimidation and risk and, depending on the findings, through necessary protection measures in each case; and "to support them" during the criminal proceeding, especially at the oral proceedings stage, by providing an integrated service that makes it easier for the victim and witnesses to participate in the process. MP representatives also referred to the specialized, domestic violence immediate intervention models that provide timely and effective protection to victims during their participation in criminal proceedings; child victims of sex offenses and domestic violence, and protection in complex cases.

[43] Regarding the SIUA, the representatives of the MP described it as a system that allows face-to-face, by telephone, and virtual interaction, providing adequate and quality information and assistance to facilitate access to the services that the MP provides, ensuring a timely and effective response and thereby establishing reciprocal channels of communication with users. Specifically, the objectives of the SIAU are to provide users with information about the functions of the MP and the services they entail, together with their respective standards and work processes, formalities, time frames and procedures; to receive and deal with complaints submitted regarding the institution and its staff, faults, omissions, or any other irregularity that affects the interests of the complainants; receive and examine suggestions and compliments for improving the MP, as well as requests in connection with the Access to Public Information Law (No. 20.285) (hereinafter the "Transparency Law"),^{33/} and carry out user satisfaction surveys and monitoring exercises on the services that the MP provides, among others.

[44] As regards control mechanisms, Articles 11, 45, and 53 of the LOCMP refer to disciplinary, civil, criminal, and political liability of MP public prosecutors and staff with respect to their actions. With respect to the procedure for pursuing the administrative liability of assistant public prosecutors, it is governed by Articles 48 to 52 of the LOCMP, while for regional public prosecutors it is set out in Article 52 thereof; both procedures are complemented with the provisions contained in the Regulations on Administrative Liability of MP Prosecutors and Employees.^{34/} The procedure

31. During the on-site visit, MP representatives gave the Technical Secretariat a presentation on the SAF, which is available at: http://www.oas.org/juridico/ppt/mesicic4_chl_sist.ppt

32. See www.fiscaliadechile.cl/Fiscalia/victimas/modelo.jsp.

33. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_ley20285.pdf

34. Available at: http://www.summit-americas.org/iii_summit/iii_summit_poa_en.pdf

described in those regulations also applies for holding other MP employees to account, in accordance with the provisions of Article 17(d) of the LOCMP.

[45] During the on-site visit, MP representatives provided additional information to the above, referring to preventive internal controls, which are put into effect upon entry to the institution via declarations of net worth and interests that all employees are required to present, in addition to meeting the requirements of the appointment system in force at the MP. It was also explained that preventive controls are applied through performance evaluation and management control systems, the drug abuse surveillance policy, MP regulations, and general and, as applicable, regional guidelines on conduct, as well as through the oversight and auditing functions and powers of the Internal Comptroller Division^{35/} of the National Prosecution Office.^{36/}

[46] As regards mechanisms for addressing claims, complaints or allegations related to the pursuit of its objectives, both in its response to the questionnaire and in the on-site visit, MP representatives reported that the Legal Advisory Unit of the National Prosecution Office, through its Administrative Complaints and Investigations Area, is the entity responsible for reviewing administrative investigations, in accordance with the Organizational Regulations of the National Prosecution Office's Support Units,^{37/} as well as for reporting and referring to the National Public Prosecutor any complaints presented by private citizens in connection with the management of cases or administration issues. Such complaints may be made in writing, with a letter addressed to the appropriate regional public prosecutor, or through forms available at the National Prosecution Office, regional public prosecution units, and local public prosecution units throughout the country.^{38/}

[47] As regards mechanisms for ensuring budgetary resources, Article 90 of the LOCMP provides that the institution is subject to the regime established in the State Financial Administration Organizational Law and that the "*Public Sector Budgets Law shall annually consult the availability of necessary resources for the operations of the Public Prosecution Service. To that end, the National Public Prosecutor shall inform the Ministry of Finance of the Public Prosecution Service's budgetary needs within the time limits and in accordance with the mechanisms established for the public sector.*" The section "*Fiscalía Transparente*" on the MP website provides, *inter alia*, the annual budgets of the MP from 2009 to 2012, as well as reports on budget execution and transfers of public resources.^{39/}

[48] As regards mechanisms for coordination with other oversight bodies and branches of government, as well as for obtaining support from other authorities and members of the public, in its response to the questionnaire,^{40/} the MP provided information about various cooperation agreements signed with other institutions. For example, with the CGR to facilitate access for the MP to the declarations of net worth and interests of civil servants, as well as to the government employee database;^{41/} with the Internal Tax Service to enable the MP to access the Service's database; with the

35. See Title II of the Organizational Regulations of the Divisions of the National Prosecution Office, available at:

http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_org.pdf

36. During the on-site visit, MP representatives provided the Technical Secretariat with data on the total number of administrative investigations per year since 2006, the final penalties applied, and the decisions of the National Public Prosecutor, available at: http://www.oas.org/juridico/ppt/mesicic4_chl_cont.ppt

37. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_regla_org_uni.pdf

38. During the on-site visit, MP representatives supplied the Technical Secretariat with information about mechanisms for dealing with complaints, which is available at: http://www.oas.org/juridico/ppt/mesicic4_chl_mec.ppt

39. See: <http://www.fiscaliadecile.cl/transparencia/GobiernoTransparente.htm>

40. See response of the MP to the questionnaire for the fourth round, pgs. 29 to 33, *supra* note 8.

41. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_conv_cgr.pdf

UAF on mutual training;^{42/} with the State Defense Council; with *ChileCompra* for the exchange of data, background information on government procurement tenders, database access, and training; with the Superintendencies of Banks, of Securities and Insurance, and of Bankruptcies; with the Civil Registry Service; with the National Customs Service, and with the Chilean Association of Municipalities. In addition, the MP, CGR, and the State Defense Council are implementing an online information exchange project financed by the Inter-American Development Bank (IDB) entitled “Shared Use of Information to Improve the Fight Against Corruption in Chile” to “*Improve the effectiveness, opportunity and transparency of the investigation and prosecution of corruption in the public function, through the use of shared and transparent information about reports and investigations.*”^{43/}

[49] In addition, with respect to the fight against corruption, the MP is part of the “Anticorruption Front,” an interagency coordination panel composed of the CGR, PJUD, the Constitutional Court, and State Defense Council, which, under an “Oversight Agency Institutional Cooperation and Coordination Agreement,”^{44/} are jointly tackling the symptoms of corruption and graft. Among other aspects, the agreement provides for the exchange of data and background information on the various areas encompassed by anti-graft efforts in the courts and agencies that represent litigants, implementation of training and skills upgrading activities for their personnel in the same areas, and other initiatives to that end, based on such general and specific plans and projects as may be agreed upon for those purposes.

[50] Finally, with respect to accountability mechanisms, Article 21 of the LOCMP provides that the National Public Prosecutor shall give an account of the activities of the MP in April each year at a public hearing transmitted online via the institution’s website. According to that provision, that report must cover, inter alia, the results of activities carried out, basic statistics, use of budget resources, any difficulties that have arisen, and, if deemed advisable, public policies and legal amendments considered necessary for improving the criminal justice system. The same provision also requires the disclosure of the principles that will guide the activities of the MP over the coming year. For its part, Article 36 of the LOCMP establishes the obligation for regional public prosecutors to hold a public accountability hearing in January of each year regarding the activities carried out in their respective jurisdictions. The public accounts of the National Public Prosecutor and regional public prosecutors are posted on the MP website.^{45/}

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

[51] The MP has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described in brief in section 1.1 of this report. However, the Committee considers it timely to make a number of observations in relation thereto:

[52] To begin with, the Committee takes note of the mechanisms for addressing complaints regarding the fulfillment of the MP’s functions that citizens may submit in writing via the mechanisms and forms described in section 1.1 above. However, in the interests of facilitating and strengthening relations between the MP and the community, the Committee suggests that the country under review consider setting up a link on the MP website that would also allow private citizens to

42. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_conv_min.pdf

43. See: <http://www.iadb.org/es/proyectos/project-information-page.1303.html?id=ch-t1091>

44. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_conv.pdf

45. See: <http://www.fiscaliadechile.cl/Fiscalia/quienes/cuentas.jsp>

report complaints and offer suggestions and compliments. (See recommendation 1.4.1. in Chapter II of this report).

[53] Second, based on the information provided by the MP in its response to the questionnaire,^{46/} as well as the background information, diagnostic assessment, and justifications envisaged in the Strengthening Plan adopted as one of the projects arising from the MP's Strategic Plan 2009-2015, both of which documents are cited in section 1.1 above, the Committee believes that it would be appropriate for the country under review to consider adopting, bearing in mind the existing proposed law,^{47/} pertinent provisions and measures to provide the MP with the human resources that it needs (public prosecutors and legal, technical, and administrative support staff) for the proper performance of its legally and constitutionally recognized functions and responsibilities within the Chilean criminal justice system, in particular those that concern the investigation of corrupt practices. (See recommendation 1.4.2. in Chapter II of this report).

[54] Third, during the on-site visit, MP representatives presented and explained the scope and content of a proposal regarding the creation of a public prosecution unit for highly complex investigations (hereinafter FIAC),^{48/} with highly specialized teams within the current structure of the institution, and including within its purview investigations on acts that could constitute a corruption offense. The proposal, as stated during the visit, was put forward in response to the institutional diagnostic assessment carried out on the way in which the MP currently deals with a "highly complex" investigation, citing, by way of example, the existence of specialized but not exclusive public prosecutors and that when a public prosecutor is exclusively assigned to specific types of cases it affects the work of the public prosecution unit to which they belong because of the need to redistribute workloads, in addition to the impossibility of having permanent police teams and the need to set up ad hoc investigative teams following requests to the various police forces. The MP representatives also highlighted the difficulties that exist in processing and analyzing the large amounts of information that gathered in such cases, since the analysis has to be done by professionals in different areas, making multidisciplinary teams a necessity.

[55] The MP representatives also mentioned that the public prosecution unit being proposed would be *supra* territorial in scope, and have a multidisciplinary work team integrating different agencies. It would also be set up as an operational unit of the MP that obtains administrative support from the National Public Prosecution Office (computer systems, human resources, administration and finance, etc.). In addition, the MP representatives mentioned the advantages that the proposal would offer, including targeting the most serious cases; institutionalizing the criminal prosecution of these offenses, which would entail depersonalization and minimizing exposure for public prosecutors, multidisciplinary and interagency work; strengthened confidentiality; coordination with financial institutions; the possibility of an expeditious and timely lifting of bank secrecy; online access to the main databases; encouragement of information sharing at the international level; and a greater quantity of human and financial resources.

46. See response of the MP to the questionnaire for the fourth round, pg. 47, *supra* note 8.

47. See proposed law to strengthen the MP (*Boletín* No. 8265-07), available at: <http://goo.gl/e1RZk>

48. Available at: http://www.oas.org/juridico/ppt/mesicic4_chl_ant.ppt

[56] Based on the above information collected during the on-site visit, as well as that provided in the response to the questionnaire,^{49/} the Committee believes that it would be useful for the country under review to consider adopting, bearing in mind the existing proposed laws and constitutional reform,^{50/} such provisions as it deems pertinent to create, within the structure of the MP, a specialized prosecution office to confront the increasing sophistication of acts of corruption and the attendant complexity of their investigation and prosecution. (See recommendation 1.4.3. in Chapter II of this report).

[57] Finally, bearing in mind the difficulty identified in the response to the questionnaire in terms of fulfilling the purposes of the MP with respect to the detection and investigation of acts of corruption,^{51/} the Committee believes that it would be advisable for the country under review to consider adopting the necessary provisions and measures that would allow the investigative tools and techniques used in electronic and other surveillance as well as in undercover operations, which are currently only available for investigating money-laundering offenses, also to be used for detecting and investigating acts of corruption. (See recommendation 1.4.4. in Chapter II of this report).

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

[58] The response to the questionnaire of the country under review and the on-site visit yielded information on the MP, notably the following:

[59] In first place, regarding the measures that have been deployed to prevent corruption, although the main functions of the MP are with respect to detecting and investigating criminal acts, in its response to the questionnaire,^{52/} the country under review notes that following the entry into force of the Legal Persons Criminal Liability Law No. 20.393,^{53/} the National Group of Experts against Corruption (hereinafter GNECC), in which the MP is involved, was created. As part of its activities, the Group has been holding meetings with private sector organizations to promote the scope and content of the above law, as well as promoting the creation as a criminal offence the bribery of domestic and foreign public officials, as set out in the aforementioned Law.

[60] Second, with respect to the functions of the MP as regards investigation and prosecution of acts of corruption that constitute criminal offenses, in its response to the questionnaire and in the on-site visit,^{54/} the MP noted that the number of reported corruption offenses in Chile only accounted for 0.1% of the total number of complaints received in 2012.^{55/}

[61] In that connection, the country under review provided a number of statistical charts in its response to the questionnaire as well as in the on-site visit on investigations opened between 2007 and 2011,^{56/} specifying that the information contained in them is for reference purposes and comes from the MP records system, having been extracted from a database current to November 10, 2012,

49. See response of the MP to the questionnaire for the fourth round, pgs. 47 and 48, *supra* note 8.

50. See proposed law to strengthen the MP (*Boletín* No. 8265-07), available at: <http://goo.gl/e1RZk>; and the proposed constitutional reform (*Boletín* No. 8274-07), available at: http://sil.senado.cl/cgi-bin/index_eleg.pl?8274-07

51. See response of the MP to the questionnaire for the fourth round, pg. 47, *supra* note 8.

52. See response of the MP to the questionnaire for the fourth round, pg. 34, *supra* note 8.

53. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley20393.pdf

54. See response of the MP to the questionnaire for the fourth round, pg. 35, *supra* note 8.

55. See pg. 22 of the Public Accounts of the National Public Prosecutor 2013, available at:

http://www.oas.org/juridico/pdfs/mesicic4_chl_cue13.pdf

56. Available at: http://www.oas.org/juridico/ppt/mesicic4_chl_est.ppt

and that the Judicial Branch is the body responsible for official statistics on court judgments and decisions connected with those investigations.

[62] The statistical tables show that during the above-mentioned period, the MP opened a total of 3,193 cases or investigations involving corruption offenses,^{57/} of which 14% (435 cases) remain open while the remaining 86% (2,758 cases) are categorized as “not open.”^{58/}

[63] Information was also supplied in relation to the above terms during that period with respect to 4,166 investigations, of which 1% (44 cases) lapsed under the statute of limitations, 11% (439 cases) were suspended,^{59/} 30% (1,259 cases) were archived,^{60/} 34% (1,416 cases) were closed due to “other causes for closure,”^{61/} and 24% (1,008 cases) reached a final decision.

[64] With respect to investigations barred under the statute of limitations, the country under review mentions in its response to the questionnaire that “*our information is not broken down in that manner, so we extracted it in accordance with Article 250(d) of the Code of Criminal Procedure, which has to do with definitive dismissal and, as was precisely the case in this instance, to extinction of criminal liability for a number of causes recognized by law. That article must be taken in conjunction with Article 93 of the Criminal Code, which provides for prescription of criminal action and prescription of penalty.*”^{62/}

[65] Specifically with respect to suspended cases, the country under review supplied the information shown in the following table:

57. The statistical charts that the MP submitted in its response to the questionnaire refer only to the following corruption offenses: defrauding the Treasury (Article 239 CP), conflict of interest (Article 240 CP), influence peddling (Article 240 bis CP), misappropriation of public funds (Articles 233-238 CP), and offering or accepting bribes (Articles 248-250 CP), all of which are examples of “economic corruption.”

58. The “open” category of cases includes the number of pending investigations underway in a given year added to the number of new cases opened over the same period. The “not open” category includes all cases suspended and closed in the year in question (see response of the MP to the questionnaire for the fourth round, pg. 37, *supra* note 8).

59. This concept includes cases that have been closed due to a “reparations agreement,” “temporary dismissal,” application of the “power not to initiate an investigation,” application of “other causes for suspension,” and so-called “conditional suspension of proceedings,” since all of them represent a form of temporary closure in which a final judicial decision has not been issued and that, if certain circumstances arise, their status can be voided and the investigation reopened (see response of the MP to the questionnaire for the fourth round, pg. 39, *supra* note 8).

60. This concept includes cases closed because they have been “provisionally archived” and as a result of a “decision not to persevere,” given that in both instances it has been determined that although an investigation has been carried out, a decision on merits cannot be adopted for lack of evidence (see response of the MP to the questionnaire for the fourth round, pg. 40, *supra* note 8).

61. This concept includes different forms of closure that do not match the concepts mentioned in the MESICIC questionnaire. Thus, this category includes: “Joinder with another case,” “administrative annulment,” “other causes for conclusion,” “dismissal with prejudice, Article 250 (a), (b), (c), (e), and (f),” “dismissal with prejudice, Article 240,” “lack of jurisdiction,” and “principle of appropriateness” (see response of the MP to the questionnaire for the fourth round, pg. 40, *supra* note 8).

62. See response of the MP to the questionnaire for the fourth round, pg. 42, *supra* note 8.

CASES SUSPENDED						
CAUSE FOR SUSPENSION	Year					TOTAL
	2007	2008	2009	2010	2011	
Reparations agreement ^{63/}	2	3	7	2	3	17
Conditional suspension of proceedings ^{64/}	14	44	83	45	92	278
Temporary dismissal ^{65/}	7	7	21	5	10	50
Power not to investigate ^{66/}	21	27	17	13	15	93
Other causes for suspension	0	0	0	0	1	1
TOTAL	44	81	128	65	121	439

[66] With respect to archived cases, the country under review supplied the information shown in the following table:

CASES ARCHIVED						
TYPE OF ARCHIVE	Year					TOTAL
	2007	2008	2009	2010	2011	
Provisional archive ^{67/}	136	177	210	128	128	779
Decision not to proceed ^{68/}	96	123	156	63	42	480
TOTAL	232	300	366	191	170	1,259

[67] Finally, as regards investigations concluded by a final judgment, the country under review supplied the information shown in the following table:

FINAL JUDGMENTS						
TYPES OF JUDGMENT	Year					TOTAL
	2007	2008	2009	2010	2011	
Conviction	192	198	281	151	105	927
Acquittal	34	27	8	8	4	81
TOTAL	226	225	289	159	109	1,008

[68] In spite of the foregoing data, in statistical bulletins published on the MP website,^{69/} the Committee found the following information regarding cases opened and closed, as well as the terms used in reference to offenses committed by “public officials” examined by the MP between 2008 and 2012:^{70/}

63. See Article 241 CPP, *supra* note 6.

64. See Article 237 CPP, *supra* note 6.

65. See Article 237 CPP, *supra* note 6.

66. See Article 252 CPP, *supra* note 6.

67. See Article 167 CPP, *supra* note 6.

68. See Article 248(c) CPP, *supra* note 6.

69. Available at: <http://www.fiscaliadechile.cl/Fiscalia/estadisticas/index.do>

70. Official Letter FN No. 059-2009 of January 30, 2009, mentions at section I, paragraph 1 the offenses that belong to the category of “public official offenses,” available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ofi059.pdf

OFFENSES BY PUBLIC OFFICIALS	YEAR					TOTAL
	2008	2009	2010	2011	2012	
1. Cases opened	1,165	1,285	1,075	1,298	1,362	6,185
2. Cases concluded	1,227	1,343	1,292	1,512	1,595	6,969

3. Terms applied in offenses by public official	YEAR					TOTAL
	2008	2009	2010	2011	2012	
3.1. Judicial outcome						
3.1.1. Conviction	N/A	236	217	218	290	959
3.1.2. Acquittal	N/A	38	30	19	21	108
3.1.3. Dismissal with prejudice	N/A	138	75	92	87	392
3.1.4. Temporary dismissal	N/A	31	17	18	22	88
3.1.5. Conditional susp. proceedings	N/A	242	259	450	540	1,491
3.1.6. Reparations agreement	N/A	3	5	10	15	33
3.1.7. Power not to investigate	N/A	67	86	61	67	281
Subtotal	N/A	755	689	868	1,042	3,354

3.2. Non judicial outcome	YEAR					TOTAL
	2008	2009	2010	2011	2012	
3.2.1. Provisional archive	N/A	524	580	606	548	2,258
3.2.2. Decision not to proceed	N/A	284	205	196	190	875
3.2.3. Principle of appropriateness	N/A	6	13	34	21	74
3.2.4. Due to jurisdiction	N/A	187	104	114	121	526
Subtotal	N/A	1,001	902	950	880	2,732

3.3 Other terms	YEAR					TOTAL
	2008	2009	2010	2011	2012	
3.3.1. Administrative annulment	N/A	52	19	7	19	97
3.3.2. Joiner with another case	N/A	274	207	107	170	758
3.3.3. Other causes for conclusion	N/A	21	15	25	7	68
3.3.4. Other causes for suspension	N/A	1	0	1	0	2
Subtotal	N/A	348	241	140	196	925

TOTAL	N/A	2,104	1,832	1,958	2,118	8,012
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N/A: Not available

[69] This information serves to show the results obtained by the MP in the performance of its functions as regards detection and investigation of corrupt acts. However, the Committee notes that in the last four years, 68% of cases involving offenses committed by public officials ended with a judicial outcome in which the conclusion was other than a final judgment, and in only 28 percent of the latter was there a conviction. Therefore, the Committee will make a recommendation to the country under review that it consider analyzing the possible causes of this situation with a view to adopting appropriate corrective measures.⁷¹ (See recommendation 1.4.5. in Chapter II of this report).

71. On August 12, 2013, the State under review reported that on January 11, 2013, the National Public Prosecutor, by means of document FN No. 039/2013 (<http://www.fiscaliadechile.cl/Fiscalia/instructivos/index.do>) issued the new guidelines for action in the area of corruption, which restricted the admissibility of the conditional suspension of alternative proceedings; application of this mechanism now requires the decision of the corresponding Regional Prosecutor, who is to

[70] With regard to the foregoing, in its report, “*Chile Transparente*” said that “*without wishing to venture any kind of opinion or observation on the performance of the public prosecution service, a surprisingly high proportion of judicial proceedings concerning offenses committed by public officials do not end with a judgment, but in other outcomes, such as conditional suspension of proceedings, reparations agreements, and power not to investigate.*”^{72/}

[71] Finally, with regard to investigations that have lapsed under the statute of limitations for failure to conclude within the established time limit, based on the information available to it and bearing in mind, moreover, what the country under review said in its response to the effect that “*our information is not broken down in that manner,*” the Committee will offer a recommendation in that connection.^{73/} (See recommendation 1.4.6. in Chapter II of this report).

1.4. Conclusions and recommendations

[72] Based on the comprehensive review conducted with respect to the Public Prosecution Service in the foregoing sections, the Committee offers the following conclusions and recommendations:

[73] Chile has considered and adopted measures intended to maintain and strengthen the Public Prosecution Service as an oversight body, as described in Chapter II, Section 1 of this Report.

[74] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1. Establish an electronic link on the Public Prosecution Service website that would allow members of the public to report complaints and offer suggestions and compliments. (See Chapter II, Section 1.2 of this report).
- 1.4.2. Consider adopting, bearing in mind the availability of resources, the pertinent provisions and measures that provide the Public Prosecution Service with the human resources that it needs for the proper performance of its functions, in particular those that concern the investigation of acts of corruption. (See Chapter II, Section 1.2 of this report).
- 1.4.3. Consider adopting such provisions as it deems pertinent to create, within the structure of the Public Prosecution Service, a specialized prosecution office to confront the increasing sophistication of acts of corruption and the attendant complexity of their investigation and prosecution. (See Chapter II, Section 1.2 of this report).

adopt it directly and to report thereon to the Specialized Anticorruption Unit. Document 039/2013 also reiterates the use of this power on an exceptional, restricted, and prudent basis, particularly in light of the difficulties inherent in controlling the observance of the conditions for suspension. Regional Prosecutors are required, in each case, to assess the circumstances of the commission of the crime and its nature, form, and motives, and they are to pursue criminal prosecutions when they seem necessary by reason of the seriousness and importance of the facts in the specific case.”

72. See report presented by the organization “*Chile Transparente*”, pg. 11, *supra* note 3.

73. See response of the MP to the questionnaire for the fourth round, pg. 39, *supra* note 8.

- 1.4.4. Consider adopting the provisions and measures that it considers pertinent to allow the investigative tools and techniques used in electronic and other surveillance as well as in undercover operations, which are only available in money laundering investigations, so that they may also be used for detecting and investigating acts of corruption. (See Chapter II, Section 1.2 of this report).
- 1.4.5. Conduct an analysis of the causes that could be influencing the application, with respect to offenses committed by public officials, of judicial outcomes other than a final judgment, in order to adopt corrective measures, as appropriate. (See Chapter II, Section 1.3 of this report.)
- 1.4.6. Prepare statistics regarding investigations of acts of corruption that shed light on the number of decisions regarding the lapsing of penalties or criminal action for failure to have adopted a decision within the statutory time limit, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 1.3 of this report.)

2. OFFICE OF THE COMPTROLLER GENERAL

2.1. Existence of a legal framework and/or other measures

[75] The Office of the Comptroller General (CGR) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[76] The CGR is an oversight body that exercises oversight of the legality of government acts, inspects revenues and the investment of funds of the Treasury, municipalities, and such other organs as the law indicates, as well as examining and assessing the accounts of persons responsible for the assets of those entities. It also keeps the General Accounts of the Nation, among other legally entrusted functions. Its structure and functions are mainly governed by Chapter X of the Constitution and by the Law on the Organization and Powers of the CGR (Law 10.336) (hereinafter Law 10.336).^{74/}

[77] In this context, the functions of the CGR may be categorized as follows:

[78] – Legal function, which consists of controlling the legality of government acts through the interpretation of legal standards that impact on the administrative sphere, which it does by issuing reports or binding legal opinions known as “administrative jurisprudence,” as well as controlling formal orders emanating from the Government, which may be preventive, simultaneous, or ex-post. In particular, preventive control is practiced through the so-called “recording” [*toma de razón*] procedure provided for in Article 99 of the Constitution and Article 10 of Law No. 10.336.^{75/}

74. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_ley10336.pdf

75. *Toma de razón* [Recording] is the preventive oversight procedure whereby the CGR verifies the legality of decrees and resolutions that are required by law to be processed before it, as well as the constitutionality and legality of decrees with the force of law. While it is a mechanism for controlling the legality of the instruments examined, the CGR is not empowered to issue an opinion or characterize the merits or advisability of political or administrative decisions. Administrative acts concerning personnel who are exempt from the *toma de razón* procedure must be referred to the CGR for registration and ex-post review.

[79] Audit function, which, under Articles 98 of the Constitution, 21 and 21(A) of Law No. 10.336, and 52 of the State Financial Administration Organizational Decree Law (Law No. 1.263),^{76/} consists of ensuring compliance with legal standards, the safeguarding public property, and observance of the principle of administrative integrity through the performance of audits to evaluate the internal control systems of services and entities; monitoring the application of provisions on the state financial administration, particularly those concerning budget execution and accuracy of financial statements; verification of compliance with statutory provisions applicable to civil servants and formulation of suitable proposals for rectifying any gaps detected; and examination of the accounts that the CGR is required exclusively to perform by the Constitution.

[80] – Accounting function, which, also pursuant to Article 98 of the Constitution, consists of generating structured, systematic information on the economic events that modified the resources and obligations of the State in order to support the decision-making process by the different branches of government, administrative authorities, and oversight bodies, as well as issuing exclusive regulations on public sector accounting overall, adopting binding interpretations of provisions in force that affect the bookkeeping of a particular operation, and reporting on the applicable technical procedures.

[81] – Jurisdictional function, which, in accordance with the provisions of Article 98 of the Constitution and Title VII of Law 10.336, consists of assessing the accounts of persons or civil servants with public funds or assets under their responsibility and ensuring the legality of their income and expenditure and the integrity of state assets, with a view to pursuing the extracontractual civil liability of any current or former civil servants that have caused harm to public financial interests. In order to perform this function, the CGR incorporates a public prosecutor's office within its structure, which defends the financial interests of the treasury in accordance with the provisions contained in Article 110 of Law 10.336 as well as the Courts of Auditors at First and Second Instance. The former is a single-person organ known as the Lower Court of Auditors [*Juzgado de Cuentas*], which comprises of the Deputy Comptroller General. The latter is a collegiate tribunal presided over by the Comptroller General, its other members being lawyers appointed by the President of the Republic on the recommendation of the Comptroller. It hears appeals and motions to review decisions in audit proceedings.

[82] The CGR enjoys autonomy and independence in carrying out the above functions as provided in Article 98 of the Constitution and Article 1 of Law 10.336. However, with regard to the joint exercise of functions with other organs or authorities, during the course of the on-site visit, the representatives of the CGR pointed out that the Chilean system of laws provides for the possibility of conflicts of jurisdiction arising between the CGR and the superior courts of justice. In that regard, Article 53, paragraph 3 of the Constitution instructs the Senate “*to take cognizance of any disputes of jurisdiction that may arise between political or administrative authorities and the superior courts of justice.*” In that regard, based on the response of the country under review to the questionnaire,^{77/} any conflicts of jurisdiction that may arise as a result of the admission of judicial remedies invoked before the courts of justice against administrative decisions issued by the CGR in exercise of its constitutional powers shall be settled by the Senate. According to information provided by the representatives of the CGR during the on-site visit, jurisdictional conflicts of this type occur infrequently.

76. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_dec1263.pdf

77. See response of the CGR to the questionnaire for the fourth round, pg. 9, available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_contraloria.pdf

[83] As regards the scope of its functions, Article 16 of Law 10.336 provides that all government services, state institutions, semi-state institutions, autonomous agencies, state-owned companies, and, in general, all public services created by law are subject to the oversight of the CGR, without prejudice to the control exercised by a number of superintendencies over the institutions and entities under their oversight. In that regard, during the on-site visit, CGR representatives supplied further information, mentioning that the situation was one of complementary, non-conflicting jurisdictions, and one where the CGR does not exercise a type of higher oversight either, given that the two entities act within their own predetermined, legally established sphere of authority. It was also noted that the superintendencies have precise functions when it comes to surveillance and oversight based on the system of rules that governs their sector and that in the exercise of those functions they may not encroach on the jurisdiction of other organs, in accordance with the principle of legality recognized in Articles 6 and 7 of the Constitution. The CGR also oversees all the country's municipalities as well as enterprises, corporations, or entities that are either state-owned or privately owned with the state or any of its centralized or decentralized enterprises, corporations, or entities holding a capital interest.

[84] As regards exceptions to its authority, the CGR does not oversee the legislative or judicial branches, the Central Bank, or the Public Prosecution Service; nor commercial entities, banks, telephone and electricity companies, or private clinics and social security health care providers, among others. Likewise, in accordance with Article 21(B) of Law 10.336, regarding the legality control or audits that it conducts, the CGR lacks authority to assess anything concerning the merits or advisability of political or administrative decisions. Having said that, in keeping with its duty to safeguard compliance with the law, with respect to those entities subject to its oversight, it is to monitor whether they are acting effectively and efficiently pursuant to Articles 5 and 53 of the Government Administration General Framework Constitutional Organizational Law (hereinafter Law 18.575).^{78/}

[85] As regards the way in which the CGR adopts its decisions, whether internally or by constitutional and legal mandate, they are taken by the Comptroller General based on the work done by each division of the institution in accordance with their legally prescribed responsibilities.

[86] As regards recourse to review of decisions, whether internally or before external agencies or authorities, in the course of the on-site visit CGR representatives explained that a distinction had to be made between appeals that may be brought against decisions adopted by the institution generally and those that apply to its jurisdictional function. Regarding the former, CGR representatives said that under Article 8 of Law 10.336, such decisions are not open to appeal to another authority; in other words, the decisions that the CGR adopts in the exercise of its legal, audit, and bookkeeping functions are only subject to motions for reversal or reconsideration before the same institution, as provided in Article 10 of Law 18.575. The foregoing is without prejudice to the review of certain decisions by the Comptroller General in the regular courts, normally by means of an application for a writ of protection.

[87] As regards decisions having to do with its jurisdictional function, Article 119 of Law 10.336 allows the possibility of appeal against rulings adopted at first instance in audit proceedings, which the Higher Court of Auditors (*Tribunal de Cuentas*) will examine at second instance. Furthermore, decisions adopted by the lower court of auditors are only subject to challenge by means of a motion reversal addressing procedural issues, not merits. The ruling of the Higher Court of Auditors on an appeal may, in turn, be challenged by means of a special review mechanism envisaged in Article 126

78. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_ley18575.pdf

of Law 10.336, which is only allowed before the same court due to a failure to issue a summons, an error in fact, or new evidence or circumstances that were not considered in the ruling challenged.

[88] Furthermore, in exercise of its disciplinary authority, the CGR may impose penalties on any civil servant as a result of a preliminary investigation carried out in accordance with Decree Law 799 of 1974,^{79/} which may be challenged by a motion for reversal, provided that application of the relevant penalty has not been finalized or an appeal is not possible under the second paragraph of Article 11 of the same law, according to which, “*punishments exceeding a fine may be appealed by the interested party to the Supreme Court.*”

[89] As regards the measures necessary for applying and/or enforcing its decisions, Articles 6, 7, and 98 of the Constitution; Article 2 of Law 18.575; and Articles 1, 5, 6, 9, 16, and 19 of Law 10.336 make binding and mandatory all legal opinions and audit reports issued by the CGR for the agency subject to its oversight. Therefore, failure by civil servants to observe them entails an infringement of their duties, incurring their disciplinary liability, which is enforced through the appropriate administrative proceeding. Furthermore, under Article 9 of Law 10.336, the Comptroller General may request information from public administration services and entities, and failure to comply with such a request may be punished by the Controller directly with a fine or suspension of the official responsible, as appropriate. Similarly, pursuant to Article 8 of Law 10.336, the Comptroller General may request assistance from law enforcement to carry out necessary inquiries in the context of any investigations that he or she may order. Finally, as regards compliance with decisions adopted in an audit proceeding, pursuant to Article 125 of Law 10.336, the Comptroller General may order civil servants who have not complied with a judgment to have their pay docked, in accordance with Article 124 of that law, without prejudice to the power to invoke enforcement proceedings in the regular courts for collection.

[90] For the purposes of this report, in its response to the questionnaire,^{80/} the country under review indicated that the Comptroller General and the Deputy Comptroller General are the highest authorities in the CGR. As regards the manner in which the position of Comptroller General is filled, Article 98 of the Constitution and Article 3 of Law 10.336 provide that the Comptroller General is appointed by the President of the Republic with the approval of the Senate, by a vote of three fifths of its serving members. The Comptroller General serves for a term of eight years, may not be reappointed for consecutive terms, and shall retire upon completing that term or reaching 75 years of age. The Deputy Comptroller General is appointed by the Comptroller General.

[91] In addition, under Article 4 of Law 10.336, both the Comptroller General and the Deputy Comptroller General shall enjoy the same prerogatives and tenure that the laws provide for members of Superior Courts of Justice and may only be removed by the President of the Republic on the basis of a judicial decision reached in the same way as that established for removal proceedings instituted against Superior Court Judges and for the grounds provided for justices of the Supreme Court.

[92] With regard to the foregoing, in the on-site visit, CGR representatives referred to the competent bodies for enforcing liability for the actions of the Comptroller General and Deputy Comptroller General and for deciding whether or not they should remain in office. In this respect, it was mentioned that Article 52(2) of the Constitution recognizes, among the exclusive powers of the House of Deputies, that of accepting or rejecting accusations presented by not less than 10 nor more than 20 of its members against the authorities mentioned in said paragraph 2, subparagraph (c) of which

79. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_dec799.pdf

80. See response of the CGR to the questionnaire for the fourth round, pg. 12, *supra* note 77.

envisages “judges of superior courts of justice and the Comptroller General for manifest neglect of their duties.” The accusation shall be processed in accordance with Title IV of Constitutional Organizational Law of the National Congress (Law 18.918).^{81/} If the accusation is admitted, the record shall be forwarded to the competent regular courts for processing the case in accordance with Articles 51(1), 338, 339, and other applicable provisions of the Organizational Code of Tribunals.

[93] As regards the manner in which the human resources necessary for its operations are identified and provided, Article 3 of Law 10.336 provides, in addition to the appointment of the Comptroller General by the President of the Republic with Senate approval, that “*all other employees of the Office of the Comptroller General shall be trust appointments made by the Comptroller, who may appoint, promote, and remove them with complete independence from any other authority.*”

[94] Article 49 of Law 10.336 provides that staff appointments and promotions in the CGR will be done in accordance with the provisions contained in the law and that promotions should be granted to employees in the same office. Article 50 empowers the Comptroller General to “*designate contractual staff in accordance with the needs of the Service and with funds legally consulted to that end. Contractual staff who have performed efficiently, in the opinion of the Comptroller, shall be granted a preferential option to fill vacancies that arise at the lowest personnel grade.*”

[95] Regarding the foregoing, during the on-site visit, CGR representatives explained the supplementary application of the standards contained in the Administrative Statute Law (Law 18.834)^{82/} (hereinafter Administrative Statute) in matters not governed by Law 10.336, in accordance with CGR Opinions Nos. 28.614 of 1989^{83/} and 853 of 1991.^{84/} bearing in mind that said Statute is generally applicable to all civil servants. Mention was also made of CGR Resolution No. 01471 of 2003,^{85/} which sets out the entity’s personnel policies and provides, in keeping with the Administrative Statute, that staff selection shall be done by means of competitive procedures, among other provisions.

[96] In the context of the on-site visit, CGR representatives explained the nature, scope, and mandatory status of this resolution, saying that it was an administrative decision adopted under Article 3 of the Framework Law on Administrative Procedures Governing the Acts of Government Organs No. 19.880^{86/}, which applies to the institution’s staff and is mandatory both for the issuing authority and its intended recipients. Similarly, the representatives of the CGR mentioned that the institution has guided itself since 1989 by the “civil service career” system in accordance with Decree Law No. 3.651^{87/} of 1981.

[97] In its response to the questionnaire,^{88/} the country under review also mentioned that CGR staff are selected based on the principles of openness, equity, and efficiency, in accordance with the personnel needs of the various divisions and regional comptroller’s offices, and, depending on the number of vacancies to be filled, the recruitment process is carried out by means of competitive evaluations of merits, which entails interviews, examinations, and the review of curricula vitae by a selection committee in which the Comptroller General plays no part. In that regard, the response by

81. Available at: http://www.oas.org/juridico/spanish/chi_res5.pdf

82. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_ley18834.pdf

83. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dic28614.pdf

84. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dic853.pdf

85. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_res1471.pdf

86. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley19880.pdf

87. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley3651.pdf

88. See response of the CGR to the questionnaire for the fourth round, pg. 12, *supra* note 77.

the country under review mentions that vacancy competition announcements are published on the institutional website and in the newspapers with the largest circulation,^{89/} and that applications are submitted via the CGR website.

[98] As regards the requirements for being accepted into positions in the CGR, Article 12 and other applicable provisions of the Administrative Statute describes the civil service entrance requirements. For their part, Articles 84 and 85 of the Statute, 47 of Law 10.336, 54 and 56 of Law 18.575, 20 bis of Decree Law 3.551 of 1980,^{90/} 32(c) of the Regional Government and Administration Law (Law 19.175),^{91/} among other provisions, set down rules on disqualifications and incompatibilities for CGR personnel.

[99] As regards the responsibilities regime for the employees of the CGR, they are mainly contained in the provisions under Title V of the Administrative Statute as well as Title IV of Law 10.336, without prejudice to the applicable provisions regarding criminal and civil liability, depending on the nature of the conduct giving rise thereto. In this regard, the disciplinary regime envisaged in the above provisions of law describes the investigation and procedural formalities, penalties (reprimand, fine, suspension, or dismissal), and the means of defense to which the infringing civil servant is entitled.

[100] In addition to the functions and powers of its units and of the staff that work in them, as described in Title I of Law 10.336, the CGR has a series of guides, manuals, directives, orders, and resolutions, including internal ones, that are available to staff on both the CGR intranet and its website.^{92/} They include practical guides for issuing opinions and the “recording” [*toma de razón*] procedure, a methodological guide for defining audit samples, the Inspection Manual, and the Rules of Procedure for Preliminary Inquiries Conducted by the CGR (Resolution 236 of 1998); Methodological Guidelines on Civil Servants’ Duties (Preliminary Investigations Unit); Service Order 107 of 2012, which introduces instructions for ordering disciplinary proceedings and their follow-up; the Public Prosecutor’s Procedural Manual for Audit Proceedings; the Manual of the General Reception Office and General Archive; Service Order 88 of 2012, which establishes instructions on outcomes of the audit function,^{93/} among others, which, as their contents suggest, described the functions of its employees and procedures for carrying out their duties.

[101] With respect to training, the CGR, through its General Secretariat Division, implements a program of international activities, talks, courses, diploma courses, internships, workshops, and seminars for upgrading and/or updating the knowledge and skills required by its personnel. The training is imparted by the institution’s own staff who belong to the “Internal Trainers Network” and by external providers on specialized topics, such as legal matters, external control, bookkeeping, government employee administration, CGR induction, and institutional management support.^{94/}

[102] In its response to the questionnaire,^{95/} the country under review presented information on the initial or induction training activities provided for newly recruited CGR staff, as well as instruction on

89. *Ibid.*, pg. 13, *supra* note 77.

90. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_dec3551.pdf

91. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_ley19175.pdf

92. Available at: <http://goo.gl/RM3pT>

93. Available at: http://www.oas.org/juridico/spanish/mesicic4_chi.htm

94. See Public Account of the Comptroller General 2012, pgs. 72 to 77, available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_cue12.pdf

95. See response of the CGR to the questionnaire for the fourth round, pgs. 18 and 19, *supra* note 77.

the specialized topics of “auditing” and “integrity and transparency” between June 30, 2007 and September 30, 2012.

[103] As regards institutional strengthening measures, the country under review mentioned in its response to the questionnaire that the CGR is a beneficiary of a technical cooperation project under an agreement signed by the Government of Chile and the Inter-American Development Bank in July 2010.^{96/} The project, entitled “Strengthening Results-Based Management in the Functions of the CGR” is currently under way.^{97/} Its objectives are to improve the institution’s internal working processes and systems in order to make it easier to align strategic products with the results-based management approach, as well as contributing to the development and strengthening of crosscutting support processes with the aim of promoting results-based management in the CGR’s working processes. Furthermore, in September 2012, the CGR signed an agreement with the Organisation for Economic Co-operation and Development for the latter to conduct a review with a view to strengthening the institution’s results-based management processes and systems in order to improve the quality and timeliness of the services that the CGR provides.^{98/}

[104] With respect to the development of modern technologies to facilitate its work, the CGR has a set of interconnected computer systems, including SIAPER (Government Employee Administration System); SICA (Integrated Audit Control System); SISTRADOC (Electronic Document Processing System); ATENEA, a system to register and follow-up on complaints of graft; ASTREA (Judicial Proceedings Monitoring System); HIPNOS, a system that acts as a digital document repository; HEFESTOS, the CGR’s personnel management system; CARIATIDE (Public Works Control System), THEMIS (Court of Auditors Electronic Processing and Management System), and GEA (Institutional Management System).^{99/}

[105] To supply the public with information about its objectives and functions and to raise awareness about the procedures established for carrying them out, the CGR has, in first place, a website (www.contraloria.cl) in which it describes its functions, and provides free access to its databases on legislation, jurisprudence, audit, follow-up, and special investigation reports. The website also has a section for consulting the status of requests, as well as a link to the “*CGR Transparente*” site, where information may be consulted about the institution and its officials, and the public can submit requests in accordance with the Transparency Law; there is also a link to the “*Contraloría y Ciudadano*” portal,^{100/} where citizens can collaborate with the CGR’s oversight efforts by submitting oversight suggestions and filing complaints using online forms designed for that purpose. The CGR also has information channels on social networking sites, such as Facebook, Twitter, YouTube, and Flickr, as well as offering users the possibility of sharing and keeping abreast of topical information via RSS.^{101/}

96. *Ibid.*, pgs. 22 and 23, *supra* note 77.

97. See: <http://www.iadb.org/es/proyectos/project-information-page.1303.html?id=CH-T1090>

98. Available at: <http://goo.gl/mcrgl>

99. A description of the various computer systems managed by the CGR may be consulted in the response of the CGR to the questionnaire for the fourth round, pgs. 23 to 25, *supra* note 77.

100. Available at: <http://goo.gl/1LxO5>

101. On September 6, 2013, the State under review reported the recent establishment of an electronic link to enable private citizens to present complaints, suggestions, and/or compliments regarding the functions that the Office of the Comptroller General carries out and the performance of the staff that it employs, available at:

<http://www.contraloria.cl/NewPortal2/portal2/ShowProperty/BEA%20Repository/Portal/Servicios/opineServiciosCGR.html>

[106] In second place, a User Assistance Module (ATUS) was set up within the structure of the CGR,^{102/} its main function being to provide assistance in preparing requests and offering specialized legal guidance, both face-to-face and by telephone. Finally, according to information provided by the country under review in its response to the questionnaire,^{103/} the CGR participates in and implements, as appropriate, initiatives through which it can reach out to the community and provide the public with information about its work and functions.

[107] As regards internal control mechanisms, the CGR has its Internal Audit Unit, which was created by CGR Resolution 412 of 1994,^{104/} which establishes the Unit's authority to evaluate the workings of internal controls and recommend measures for their improvement; to examine activities carried out by the CGR in accordance with approved policies, plans, and programs, as well as proposing to that end corrective measures or pertinent technical studies; and to verify that the institution's resources are managed legally, effectively, and efficiently. During the on-site visit, CGR representatives supplied additional information to the above, indicating that the Unit carries out different types of scheduled and unscheduled audits using a methodology similar to that used in external audits conducted by the CGR itself. The representatives mentioned that the Unit annually performs between 10 and 14 internal audits and that since December 2012 audits have been made public on the CGR's website.

[108] Furthermore, under Resolution 04770 of 2011,^{105/} the CGR has process management units which have been created in each regional comptroller's office, division, and other areas at the central level within the CGR, with the aim of supporting efficiency and effectiveness in the institution's management as part of a results-based management model, by establishing goals and agreements on performance, process management, and management control. During the on-site visit, CGR representatives provided additional information, saying that these units, which are under the administrative supervision of the respective regional comptroller or division chief and the technical supervision of the CGR General Secretariat, issue regular reports (national report, unit report, pending document reports and performance reports), allowing them to present the overall situation of units--both as a whole and individually--and of staff members as regards their work station, workload, pending documents, average completion times, programs and hours executed, and the results of their respective goals.

[109] As regards mechanisms for addressing claims, complaints or allegations related to the pursuit of its objectives and the performance of its staff, the CGR has a User Assistance Unit (hereinafter ATUS) that reports to the Legal Information and Coordination Division, which receives the complaints that the public posts to the ATUS "mailbox" or leaves at the General Reception Office, using forms specifically created for that purpose. However, during the on-site visit, CGR representatives provided additional information, explaining that complaints may also be submitted verbally to the direct supervisor or other senior official at the CGR, via the "*Contraloría y Ciudadano*" website, or on the institution's Facebook and/or Twitter accounts.

[110] As regards mechanisms for ensuring budgetary resources, Article 149 of Law 10.336 provides that "*based on the amounts that the General Budget Law and special laws envisage for maintaining the Office of the Comptroller General, the Comptroller General shall annually set, with the approval of the President of the Republic, the Service's budget for income and expenditure and the*

102. See: <http://goo.gl/5wOch>

103. See response of the CGR to the questionnaire for the fourth round, pg. 26, *supra* note 77.

104. See: http://www.oas.org/juridico/PDFs/mesicic4_chl_res412.pdf

105. See: http://www.oas.org/juridico/PDFs/mesicic4_chl_res4770.pdf

remunerations of the personnel in its employment.” In that regard, in its response to the questionnaire,^{106/} the country under review mentioned that “as a government organ, the CGR does not act on its own discretion where execution of its budget is concerned. On the contrary, it is subject to the same regulatory provisions that govern the rest of the public sector, including the Annual Budget Law, Decree Law 1.263 of 1975, State Financial Administration Organizational Law..., the Budget Classifier ... and all other budgetary and accounting standards in force in that regard.” Information on, *inter alia*, budget appropriations and reports on their execution from 2009 to 2013 can be consulted in the *CGR Transparente* section of the CGR website.^{107/}

[111] As regards coordination mechanisms to harmonize the functions of the CGR with those of other government bodies, in addition to Articles 102, 117, 128, 139, and other related provisions of Law 10.336 making coordination between the CGR and other state entities mandatory for the performance of certain functions, as mentioned with regard to the MP, the CGR is part of the “Anticorruption Front,” an interagency coordination panel;^{108/} it is also involved in the project “Shared Use of Information to Improve the Fight Against Corruption in Chile.”^{109/} The CGR has also entered into a partnership agreement with the UAF to make it easier to generate and process financial information on so-called politically exposed persons.^{110/} It also has other agreements of various types with institutions such as the Civil Registry and Identity Service and *ChileCompra* (the government procurement service). The CGR also participates in joint cooperation initiatives with other government agencies, such as the *Fiscalía Nacional Económica* (the Government’s free-market competition watchdog), to develop tools for the timely detection of collusion in tenders for government contracts. In that regard, in its response to the questionnaire,^{111/} the country under review provides figures on a number of instances of collaboration with other government institutions.

[112] Finally, Article 143 of Law 10.336 provides that the Comptroller General shall annually provide each branch of government and the community at large a public account of the performance of the CGR for the previous year. The report should include, *inter alia*, a summary of the activities carried out, the financial position of the institution, and information about such other matters as it deems useful. Similarly, the same article requires each regional comptroller’s office to provide a public account to the respective regional government. The necessary information for these purposes is supplied by the various divisions and units of the CGR based on statistics prepared by their respective process management units using the computer systems of the CGR referred to above. The public accounts of the Comptroller General and regional comptrollers are published on the CGR website.^{112/}

[113] With regard to the foregoing, in the framework of the on-site visit, CGR representatives shared a link regarding their participation in a regional project that encourages best practices with respect to transparency,^{113/} participation, and accountability in oversight entities in Latin America with the aim of strengthening their capacities and impact on the exercise of public oversight, in the framework of the Civil Association for Equality and Justice (ACIJ).

106. See response of the CGR to the questionnaire for the fourth round, pg. 29, *supra* note 77.

107. See: <http://goo.gl/sNfHh>

108. See *supra* note 44.

109. See *supra* note 43.

110. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_res535.pdf

111. See response of the CGR to the questionnaire for the fourth round, pgs. 31 and 32, *supra* note 77.

112. See: <http://goo.gl/wz0DG> .

113. See: <http://acij.org.ar/blog/2011/11/10/entidades-de-fiscalizacion-superior-en-latinoamerica>.

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

[114] The CGR has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 2.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures.

[115] In first place, the Committee notes the accounting function that the CGR performs by constitutional and legal mandate, and, in particular, the exclusive responsibility to regulate the general accounting records of the public sector and to issue mandatory interpretations of legal and regulatory provisions in force that affect the accounting of certain operations. In this respect, based on the information available to it, the Committee notes that a process of convergence is underway toward the International Public Sector Accounting Standards (IPSAS),^{114/} which is being implemented by the CGR's Accounting Analysis Division^{115/} with the aim of strengthening transparency, integrity, and accountability in connection with the resources assigned to that sector, which contributes to achieving the purposes of the Convention contained in Article III(9).

[116] In that respect, the Committee believes that it would be advisable for the country under review to continue the process of harmonization of the standards of the country's General Accounting System (hereinafter SICOGEN), with the International Public Sector Accounting Standards being implemented by the CGR, which, among other benefits, will help to increase transparency in the state's financial affairs. (See recommendation 2.4.1. in Chapter II of this report).

[117] In second place, the Committee notes the array of computer systems that the CGR has for carrying out its functions, which are described in brief in the previous section. In that connection, in the course of the on-site visit, CGR representatives mentioned the existence of a series of projects for implementing new computer tools and expanding existing ones in order to continue developing a technology platform in line with the institution's needs and make the delivery and performance of its services prompter and more efficient. In relation to the foregoing, the Committee highlights the importance of continuing to develop and promote information technology projects that strengthen existing resources, bearing in mind technology's usefulness for facilitating, among other things, corruption prevention and detection efforts. The Committee will offer a recommendation in that regard. (See recommendation 2.4.2. in Chapter II of this report.)

[118] In third place, the Committee recognizes the recent launch of the "*Contraloría y Ciudadano*" portal (<http://goo.gl/1LxO5>), which features, as noted in the previous section, links and mechanisms by which to remotely submit oversight suggestions or lodge complaints that could warrant an investigation on the part of the CGR. However, during the on-site visit, it was noted that there was a need to continue to adopt measures to spread awareness about this portal and the above mechanisms. (See recommendation 2.4.3. in Chapter II of this report.)

[119] Similarly, with regard to the CGR's accountability mechanism, during the on-site visit mention was made of the possibility of strengthening it by means of mechanisms that would allow greater participation for citizens in the CGR's accountability processes as an oversight body, which would enable citizens to ask questions and make observations, within a specific time frame, so that the institution might have the opportunity to answer them and, in so doing, further strengthen the

114. See: <http://www.contraloria.cl/NewPortal2/portal2/appmanager/ExtranetCGR/NICSP>.

115. The International Public Sector Accounting Standards (IPSAS) are issued by the International Public Sector Accounting Standards Board (www.ifac.org) for the purposes of financial reporting and presentation of financial statements.

public's involvement with what the CGR does. (See recommendation 2.4.4. in Chapter II of this report.)

[120] Finally, as was noted in the preceding section, the allocation and execution of the CGR's budget is governed, *inter alia*, by the provisions contained in the General Budget Law, the annual budget laws, and the State Financial Administration Organizational Law. However, in its response to the questionnaire,^{116/} the country under review notes that one difficulty the CGR faces in accomplishing its purposes are the potential risks entailed by the fact that "*its budget is formulated by the main focus of its oversight, namely, the executive branch, through the Office of the Director of Budgets, before being forwarded for analysis to the Congress, which only has the power to approve or reject it, given that the initiative in such matters lies with the President of the Republic.*" The CGR also considered "*that the procedure in the case of the CGR should be that it proposes its own budget and the Congress makes the decision, which, moreover, would further strengthen its autonomy in executing the budget.*"

[121] In relation to the foregoing, during the on-site visit, CGR representatives said that although the institution's observations are taken into account in the national budget formulation process, they did not consider it advisable for this situation to continue over time, given that prior to the 1967 amendment, DFL No. 42 of 1959 established a minimum funding level of 0.39% of the total annual government budget for the CGR and,^{117/} at present, based on information supplied during the on-site visit, for the past seven years the percentage ratio between the CGR's budget and the overall national budget has hovered between 0.14% and 0.18%. The Committee will offer a recommendation bearing in mind the foregoing. (See recommendation 2.4.5. in Chapter II of this report).

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

[122] The response to the questionnaire of the country under review and the on-site visit yielded information on the CGR, notably the following:

[123] To begin with, in its response to the questionnaire,^{118/} the country under review mentions the measures that the CGR has implemented to prevent corruption in the public administration, such as awareness raising on public integrity and ethics, in particular through its institutional website, on which, as noted, makes available to the public its products and services connected with the specific activities of the CGR, most of which are aimed at combating corruption. The country under review also mentions the external training activities that the institution provides to personnel of entities under its oversight, as well as the various seminars and forums that the CGR has carried out to promote public ethics in coordination with other national and international agencies.

[124] Likewise, in its response to the questionnaire,^{119/} the country under review mentions the number of opinions that the CGR has issued in exercise of its legal function concerning integrity and the fight against corruption, transparency and openness, civil servant offenses, moral fitness, conflict of interest, and others to do with the misuse of power, including information on the number of consultations and requests made to the CGR under the Transparency Law.

116. See response of the CGR to the questionnaire for the fourth round, pgs. 42 and 43, *supra* note 77.

117. Available at: http://www.oas.org/juridico/pdfs/mesicic4_ch1_ley42.pdf

118. See response of the CGR to the questionnaire for the fourth round, pgs. 33 to 37, *supra* note 77.

119. *Ibid.*

[125] By the same token, the CGR has been engaged in a number of activities designed to strengthen its relations with the public and civil society organizations, including such initiatives as the project “*No mancho mi conciencia -Vivo sin corrupción*” [“I don’t stain my conscience - I live corruption free”]^{120/} with the United Nations Development Programme aimed at encouraging civil society to participate in corruption prevention; the aim is to provide civil society organizations with the necessary tools to play an active role in this task. The CGR’s creation of the “*Contraloría y Ciudadano*” portal also enables civil society to submit complaints and oversight suggestions online.

[126] The Committee finds that the above information serves to demonstrate that the CGR has adopted measures for the prevention of acts of corruption, in keeping with its functions in that regard.

[127] In second place, the CGR detects corruption through administrative preliminary inquiries as well as audits and special investigations.

[128] In its response to the questionnaire,^{121/} The country under review says that in the period from 2007 to 2011, the CGR conducted 1,313 administrative preliminary inquiries, in which, as of December 31, 2011, a decision was pending in 157 of them (0.12%):

ADMINISTRATIVE PRELIMINARY INQUIRIES	YEAR				
	2007	2008	2009	2010	2011
Concluded in the same period	45	59	107	155	181
Pending as of December 31 of that year	95	131	160	223	157
TOTAL	140	190	267	378	338

Source: CGR Public Accounts: Years 2007, 2008, 2009, 2010 and 2011

[129] During the on-site visit, CGR representatives provided the following information with respect to the above preliminary inquiries:

ADMINISTRATIVE PRELIMINARY INQUIRIES	YEAR					Total
	2007	2008	2009	2010	2011	
Opened in the same period	96	125	148	131	204	704
Ongoing (pending as of December 31, 2011)					157	157
Suspended for any reason*						0
Prescribed						0
Archived without a decision on merits*						0
Currently ready for a decision on merits**	45	59	107	155	181	547
Referred to the competent authority for a decision						All

* *The law does not provide for such concepts*
 ** *Includes concluded preliminary inquiries; that is, those for which a penalty has been proposed or that have been dismissed*

[130] With respect to audits and special investigations, the country under review mentions in its response that in the period from 2007 to 2011, 9,434 audits and 6,026 special investigations were carried out. These activities resulted in the lodging of 698 objections with the Lower Court of Auditors and 120 complaints with the relevant public-sector agencies over the same period:

120. See: <http://goo.gl/gddIV>

121. Available at: <http://www.leychile.cl/Navegar?idNorma=4236>

EXTERNAL CONTROL ACTIVITIES	YEAR				
	2007	2008	2009	2010	2011
Audits	1,700	2,247	2,257	2,128	1,102
Special investigations	1,249	1,348	1,035	1,096	1,298
TOTAL	2,949	3,595	3,292	3,224	2,400

RESULTING ACTIONS	YEAR				
	2007	2008	2009	2010	2011
Objections to the Lower Court of Auditors	110	111	149	186	142
Complaints to the MP and other agencies	63	26	9	12	10
TOTAL	173	137	158	198	152

Sources: 1.- Audit Proceedings Processing System, Themis. 2.- CGR Public Accounts: Years 2007, 2008, 2009, 2010 and 2011

[131] The Committee finds that the above information serves to demonstrate that the CGR has adopted measures for the detection of acts of corruption, in keeping with its audit functions in that regard.

[132] In third place, regarding the functions of punishing acts of corruption that give rise to administrative or civil liability, the CGR is empowered to impose penalties directly on those who commit certain regulatory infractions that engage such liability. In that regard it is incumbent upon the CGR to conduct and reach a decision on preliminary inquiries into infringements of the Decree Law on the Use and Circulation of State Vehicles (Decree Law 799 of 1974),^{122/} for which it may impose penalties that range from reprimand to dismissal. In that regard, in its response to the questionnaire,^{123/} the country under review says that in the 2007-2011 period there were 674 disciplinary proceedings concerning the above decree law and that 31 proceedings remained pending as of December 31, 2011:

DISCIPLINARY PROCEEDINGS FOR INFRINGEMENT OF DECREE LAW 799	YEAR				
	2007	2008	2009	2010	2011
Concluded	32	50	97	75	125
Pending as of December 31 of that year	38	85	67	74	31
TOTAL	70	135	164	149	156

Source: CGR Public Accounts: Years 2007, 2008, 2009, 2010 and 2011

[133] In the framework of the on-site visit, CGR representatives provided the following information with respect to the foregoing:

122. Available at: http://www.oas.org/juridico/PDFs/mesicic4_chl_dec799.pdf

123. See response of the CGR to the questionnaire for the fourth round, pg. 39, *supra* note 77.

PRELIMINARY INQUIRIES (Decree Law 799 of 1974)	YEAR					Total	Comments
	2007	2008	2009	2010	2011		
No. investigated cases ready for a decision	32	50	97	75	125	379	Concluded
No. decisions adopted	32	50	97	75	125	379	
Decisions to charge or impose a penalty	30	40	79	75	78	302	
Decisions without charges or a penalty	2	10	18	0	47	77	
Dismissed due to prescription	0	0	0	0	0	0	

[134] The Committee finds that the above information serves to show that the CGR has conducted investigations and imposed disciplinary penalties in keeping with its functions with respect to Decree Law 799 of 1974.

[135] Finally, as regards the functions of punishing acts of corruption that give rise to financial or civil liability for those found to be involved therein, according to the response of the country under review to the questionnaire,^{124/} from 2007 to 2011, 698 audit proceedings were initiated, of which 359 led to examinations of accounts and the remaining 339 to a preliminary proceeding. Not counting the cases in which objections were lodged in the conclusions of preliminary inquiries concerning damages to government vehicles and property losses of the same nature, over the same period, 93 final or enforceable convictions were handed down, ordering the repayment of the equivalent of 28,069.48 monthly tax units (hereinafter UTM),^{125/} which was in addition to the equivalent of 2,986.52 UTM in revenue to the state coffers from persons charged during the same period prior to a verdict.

[136] Furthermore, according to the response to the questionnaire, the Comptroller General, by his powers under Articles 125 and 128 of Law 10.336, ordered the repayment through the deduction from pay of the equivalent of 8,453.45 UTM and in other cases asked the State Defense Council to enforce judgments for the equivalent of 48,982.73 UTM in the same period.

[137] During the on-site visit, CGR representatives provided additional information, saying that overall, pay deductions ordered by the Comptroller General generated the equivalent of 3,787.97 UTM (US\$321,997.11) in government revenue between of 2007 and 2011.^{126/}

[138] The Committee finds that the above information serves show that the CGR has exercised its power to punish corrupt practices that give rise to financial liability in accordance with its jurisdictional function.

2.4. Conclusions and recommendations

[139] Based on the comprehensive review conducted with respect to the Office of the Comptroller General in the foregoing sections, the Committee offers the following conclusions and recommendations:

124. See response of the CGR to the questionnaire for the fourth round, pgs. 40 to 42, *supra* note 77.

125. 1 UTM = \$39,966 Chilean pesos at November 2012. On the first business day of November 2012, \$480.59 Chilean pesos = US\$1.00. (See response of the CGR to the questionnaire for the fourth round, footnote 40, *supra* note 77).

126. According to the dollar exchange rate (\$472.03 Chilean pesos) on the first business day of April 2013.

[140] **Chile has considered and adopted measures intended to maintain and strengthen the Office of the Comptroller General as an oversight body, as described in Chapter II, Section 2 of this Report.**

[141] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 2.4.1. Continue the process of harmonization of the standards of the General Accounting System, with international government accounting standards, taking into account the Convergence Plan with the International Public Sector Accounting Standards (IPSAS) being implemented by the Office of the Comptroller General. (See Chapter II, Section 2.2 of this report.)
- 2.4.2. Continue to develop and promote information technology projects that strengthen existing resources, facilitating, among other things, the corruption prevention and detection efforts of the Office of the Comptroller General. (See Chapter II, Section 2.2 of this report.)
- 2.4.3. Continue to adopt measures to raise awareness about the “*Contraloría y Ciudadano*” portal and its components that make it possible to submit on-line oversight suggestions or lodge complaints that could warrant an investigation on the part of the Office of the Comptroller General. (See Chapter II, Section 2.2 of this report.)
- 2.4.4. Adopt pertinent measures to strengthen the accountability processes of the Office of the Comptroller General with mechanisms that allow greater citizen participation. (See Chapter II, Section 2.2 of this report.)
- 2.4.5. Adopt appropriate measures to allow the Office of the Comptroller General to have a greater say and more autonomy in determining its budgetary resources and their management. (See Chapter II, Section 2.2 of this report.)

3. JUDICIAL BRANCH

3.1. Existence of a legal framework and/or other measures

[142] The Judicial Branch (PJUD) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[143] Under Articles 76 of the Constitution and Article 1 of the Organizational Code of Tribunals (Law 7.421)^{127/} (hereinafter COT), the PJUD has the authority to take cognizance of and settle all civil and criminal suits and to enforce judgments through the courts of justice that comprise it.^{128/} In addition, Articles 2 and 3 of the COT provide that the courts of justice may intervene in all non-contentious acts in which an express law so requires, and they shall also have the safeguarding, disciplinary, and economic competence that the COT grants to each of them.

127. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_cod_org.pdf

128. According to Article 5 of the COT, the ordinary courts of justice that comprise the PJUD are the Supreme Court, the courts of appeals, the presidents and members of those courts, the courts of first instance, the courts responsible for procedural safeguards, and the oral proceedings courts in criminal matters. The special courts of the PJUD comprise the family courts, the labor courts, the wage deductions and social security payments courts, and courts martial in peace-time.

[144] Furthermore, in accordance with Articles 76 of the Constitution and 12 of the COT, the PJUD is an autonomous organ that exercises its functions with independence from all other authorities and, pursuant to Article 4 of the COT it is prohibited from interfering with the functions of the other branches of government and, in general, exercising other functions than those that the law determines.

[145] As regards mechanisms for solving conflicts of jurisdiction, Article 93(12) of the Constitution provides that the Constitutional Court shall settle jurisdictional disputes between the police or administrative authorities and the courts of justice when such disputes are not within the purview of the Senate. However, Article 191 of the COT provides that the CSJ shall settle such disputes. Having said that, if, as Article 53(3) of the Constitution provides, the Senate settles conflicts of jurisdiction between police or administrative authorities and the Superior Courts of Justice, then the CSJ only resolves those that arise between the lower courts and those authorities. Disputes that occur between judicial tribunals of equal or different rank are settled in accordance with the rules set forth in Title VII of the COT.^{129/}

[146] As to the scope of its functions, Article 5 of the COT provides that it is incumbent upon the tribunals that comprise the PJUD to take cognizance of all judicial matters that present themselves within the country's territory, regardless of their nature or the status of the persons involved therein, without prejudice to the exceptions established by the Constitution and laws.

[147] As regards the manner in which its decisions are adopted, generally speaking, the PJUD issues rulings at two instances, in addition to a court of cassation, which is the CSJ. The first instance comprises the lower civil courts and the oral proceeding courts for criminal matters, while jurisdiction at second instance falls to the respective Court of Appeals. For the purposes of enforcing its decisions, Articles 76(3) and (4) of the Constitution and Article 11 of the COT empower the PJUD to issue direct orders to the security forces or to take the pertinent measures available to it. Those provisions also establish the obligation for the requested authority to comply with the judicial mandate without querying its grounds or propriety, or the justice or legality of the order to be enforced.

[148] The CSJ is the highest authority of the PJUD and, under Article 83 of the Constitution; it is in charge of the executive, correctional, and economic administration of all the courts in the country, except the Constitutional Court, the Elections Court, and the regional electoral tribunals. According to the provisions of Article 93 of the COT, the CSJ is a collegiate tribunal composed of 21 members, known as ministers, one of whom is its president; he or she is appointed by their peers, serves in that capacity for two years, and is not eligible for reelection. In accordance with Article 78 of the Constitution, ministers of the CSJ are appointed by the President of the Republic, who, with the approval of the Senate, chooses them from a list of five persons whom the CSJ proposes in each case. Of the 21 ministers, 16 are required to come from the judicial career and five shall be lawyers from outside the justice administration who have been at the bar for at least 15 years, have a prominent record in professional practice or as university lecturers, and meet the other requirements set out in Article 254 of the COT. According to Article 80(2) of the Constitution, ministers of the CSJ shall

129. On September 6, 2013, the State under review reported the existence of more than twenty judgments handed down by the courts and the CSJ's judgment No. 98 of 2008 ruling, *inter alia*, that "...in the event that a genuine conflict of jurisdiction is effectively determined, the court responsible for resolving it is not the Supreme Court: under the terms of Article 93, section 12, of the Constitution of the Republic, the Constitutional Court has competence to resolve disputes of jurisdiction arising between political or policies administrative authorities and the lower courts of justice, which is the case in the incident at hand. Because this is a constitutional provision, of a higher level in the hierarchy and directly enforceable by the courts, it should be taken into account, when applicable."

Available at: http://www.oas.org/juridico/spanish/mesicic4_chi.htm

remain in office so long as their conduct is good until the age of 75; this limitation does not apply to the President of the CSJ, who, as mentioned, remains in office until the conclusion of his or her term.

[149] As regards the competent authorities for holding the CSJ responsible for their actions and deciding whether or not they should be removed from office, the CSJ may, by a majority vote of its members, remove any minister from office for misconduct at the request of the President of the Republic or an interested party, or ex officio, in accordance with Articles 80(3) of the Constitution and 332(3) of the COT. Furthermore, ministers of the CSJ are also subject to the constitutional impeachment process described in section 2.1 of this report in relation to the Comptroller General for “for manifest neglect of their duties” under Articles 52(2)(c) and 53(1) of the Constitution and Article 333 of the COT.

[150] As regards determination and providing for their human resources needs, the judicial personnel appointments system is governed principally by Articles 78 of the Constitution and Article 263 *et seq.* of the COT. In that connection, in the course of the on-site visit, PJUD representatives mentioned that under those provisions, PJUD personnel were grouped according to their functions and responsibilities in a “General Seniority Listing” according to length of service, which is in turn split into two branches: the Primary Seniority Listing, which is subdivided into seven categories,^{130/} and the Secondary Seniority Listing, subdivided into series and categories.^{131/} There is also a Special Seniority Listing for Junior Staff or Employee Seniority Listing.^{132/} It was explained that the CSJ draws up these listings in accordance with Article 270 of the COT for the purposes of dealing with requests for the appointment of judicial staff, for promotion to a higher category based on years of service, and for preference on the basis of seniority for inclusion in three- and five-person shortlists for appointments in superior categories.

[151] Article 279 of the COT governs the procedure for the appointment of positions in the Primary Seniority Listing, including the terms and conditions, vacancy announcements, time limits, and requirements for inclusion in the lists to be sent to the President of the Republic for the purposes envisaged in Article 78 of the Constitution and Article 263 of the COT. For their part, Articles 260, 269, 279, 281, 288, 289 bis, 294, 295, 499 and other applicable provisions of the COT set out the general terms and conditions of the personnel recruitment and selection process for positions in the PJUD Secondary and Employees Seniority Listings. In that regard, during the on-site visit, the PJUD representatives explained that under the laws that govern entry into the civil service, all civil servants do so through a competition based on merit, except in the case of those who are exclusively trust appointments.

[152] In that respect, it should be noted that Article 2(b) of the Decree Law adopting the text of the Ministry of Justice Organizational Law (Law 3.346)^{133/} provides that one of the powers of that institution is to advise the President of the Republic on appointments of judges, justice administration officials, and other employees of the PJUD, as well as granting it the special power of monitoring the conduct of judges.

[153] In addition, Title XIV of the COT governs the Administrative Corporation of the Judicial Branch (hereinafter CAPJ), which, according to Article 506 of that law, is in charge of administration of the human, financial, technological, and material resources used in the operations of the PJUD. In

130. See: <http://goo.gl/HpWiz>

131. See: <http://goo.gl/1krb6>

132. See: <http://goo.gl/Ig9Zi>

133. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dec3346.pdf

addition to the provisions contained in the COT, the CAPJ is also governed by orders issued for that purpose by the CSJ and the applicable government financial administration standards. Article 506 also provides that, among other functions, the CAPJ dictates policy on personnel selection, evaluation, administration of material and human resources, management indicators, and design and analysis of statistics indicators.

[154] Furthermore, under the provisions of Law 20.628,^{134/} which amends Article 101 of the COT, the CAPJ, at the request of the relevant Courts of Appeal, prepares reports that enable the CSJ to temporarily assign judges to other tribunals when there is a mismatch between the number of judges and workloads.

[155] Articles 252, 253, 254, 259, and 295 of the COT set out, respectively, the requirements for becoming a lower court judge, minister or government prosecutor of a Court of Appeals, and minister of the CSJ, as well as for securing a position in the Employees Seniority Listing. The rules governing eligibility and conflict of interest for PJUD employees are mainly contained in Articles 251 and 256 to 261 of the COT.

[156] As regards the disciplinary regime for judicial officials, the PJUD has a Judicial Oversight Office (*Fiscalía Judicial*),^{135/} which has a Judicial Prosecutor of the CSJ, who is responsible, among other powers envisaged in the COT, to monitor the judges and government prosecutors of the Courts of Appeals and the conduct of other court officials as well as PJUD employees, but not ministers of the CSJ. In that regard, it notifies the CSJ for it to exercise its disciplinary powers under the law. In the course of the on-site visit, PJUD representatives provided additional information, referring to the review processes and corrective measures implemented by Courts of Appeals pursuant to Articles 535 to 539 of the COT respect to the official conduct of members of certain categories of the Primary and Secondary Seniority Listings that perform their duties within their respective jurisdictions, and on the oversight carried out in accordance with Articles 532 and 564 of the COT by local judges with respect to the conduct of officials and employees of the PJUD within their jurisdiction.

[157] As regards the procedure for investigating the disciplinary liability of judges and judicial officers, that is to be found in the CSJ Plenary decision contained in Record No. 129 of August 1, 2007.^{136/}

[158] It is also worth mentioning that the PJUD has the CSJ Ethics Committee, which was created by the CSJ Plenary decision contained in Record No. 262 of December 14, 2007,^{137/} with the purpose of assisting the CSJ in the exercise of its prevention, oversight, and corrective functions relative to the conduct of the Court's ministers and prosecutor, without prejudice to the investigation and punishment, as appropriate, of any specifically disciplinary faults that they might have committed by means of the procedure governed by the aforementioned Record No. 129-2007.

[159] In addition to the foregoing, Article 79 of the Constitution provides that judges shall be held personally liable for the crimes of offering or accepting bribes, material disregard of procedural laws, denial and wrongful administration of justice and, in general, any breach of duty that they commit in the performance of their official functions, and that the law shall determine the cases and the manner in which such liability shall be enforced in the case of members of the CSJ. Article 324 of the COT

134. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley20628.pdf

135. See: http://www.poderjudicial.cl/PDF/InfoInstitucional/FISCALIAJUDICIAL.pdf?opc_menu=1&opc_item=3

136. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_acta129.pdf

137. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_acta262.pdf

provides that judges shall be liable to the appropriate penalty in accordance with the nature or gravity of those crimes, as established in the Criminal Code. This provision is not applicable to members of the CSJ where failure to observe procedural laws or denial or wrongful administration of justice are concerned.^{138/}

[160] As regards the existence of manuals or other documents describing the functions of judicial personnel and of documented procedures for performing their tasks, both in its response to the questionnaire,^{139/} and during the on-site visit, PJUD representatives mentioned the issuance of so-called “agreed orders” by the higher courts of justice,^{140/} in particular the CSJ in use of its economic administration powers under Article 82 of the Constitution. In that regard, the PJUD has a wide range of agreed orders,^{141/} mostly concerning how courts should proceed in their examination of particular actions and procedural motions.

[161] The PJUD has also conducted a study entitled “Design and Description of Court Positions in the Country” [*Diseño y Descripción de Cargos de los Tribunales del País*] which identifies each of the units and posts that currently comprise them. The study also includes a manual that establishes the structure and distribution of functions for each court, according to its type and competencies, and describes the workflows and the minimum requirements to be met by the occupants of those positions. The PJUD also has a CAPJ Manual of Competencies and Transversal Competencies. All of the foregoing is available on the PJUD website.^{142/}

[162] Where training is concerned, the PJUD has the Judicial Academy, which was created by Law 19.346 of 1994 for the purposes of providing instruction to applicants for posts in the Primary Seniority Listing and refining and updating the knowledge of all members of the PJUD.^{143/} Both in its response to the questionnaire^{144/} and in the course of the on-site visit, PJUD representatives provided information about objectives, application, faculty, and other aspects relating to curricula,^{145/} development,^{146/} and induction training that the Academy provides,^{147/} as well as on the partnerships in which it engages with various institutions to meet its goals and inject greater expertise and experience into the judicial training it offers.

[163] As part of its institutional strengthening measures, in May 2011, the PJUD adopted an “Integrated Strategic Plan” for 2011-2015,^{148/} which identifies the pillars on which the PJUD centers its efforts to facilitate access to justice and provide excellence in service; reinforce transparency,

138. On September 6, 2013, the State under review stated that Article 424 of the CPP, in conjunction with Article 69 thereof, provides that: “*Chapter disputes are intended to enforce the criminal responsibility of judges, judicial prosecutors, and agents of the Public Prosecution Service for actions taken in the exercise of their functions that are punishable by law.*”

139. See response of the PJUD to the questionnaire for the fourth round, pg. 12, 12, available at:

http://www.oas.org/juridico/PDFs/mesicic4_chl_poder.pdf

140. According to Note No. 003354 of January 30, 2001, AD 16.936, “...agreed orders are decisions that are internal in both nature and effect, which are issued by this Court [CSJ], usually with the aim of making the workings of the regular courts of justice swifter and more effective. Exceptionally, regulatory vacuums arise—basically legal omissions of a procedural nature—and when that occurs, in order to ensure that judges can perform their duties in an appropriate and pertinent manner, the Supreme Court issues the necessary supplemental agreed order, which remains in force only until legislation is adopted in that regard.

141. See: http://www.poderjudicial.cl/modulos/InfoInstitucional/popup_combobox1.php?opc_menu=1&opc_item=4

142. See: http://www.poderjudicial.cl/modulos/InfoInstitucional/INS_OrgFunciones.php?opc_menu=1&opc_item=3

143. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley19346.pdf

144. See response of the PJUD to the questionnaires in the fourth round, pgs. 12 to 17, *supra* note 139.

145. See: <http://www.academiajudicial.cl/programa-de-formacion>

146. See: <http://www.academiajudicial.cl/programa-de-perfeccionamiento>

147. See: <http://www.academiajudicial.cl/programa-de-habilitacion>

148. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_plan_est.pdf

integrity, and accountability; and strengthen its judicial and civil service career through improvements in selection systems, instruction, and training, among other objectives. In this context, the PJUD, with support provided by the Inter-American Development Bank,^{149/} has been implementing an institution-building program to develop judicial policies and put into effect the reforms that have been introduced in the justice sector.^{150/} It has also been carrying out a transparency and accountability strengthening program with support from the World Bank.^{151/}

[164] As for implementation of modern technologies to facilitate its work, during the on-site visit, PJUD representatives mentioned the priority given to developing, improving, and harnessing electronic tools to support their performance and jurisdictional activity. In that regard, they noted, among other projects, the introduction and expansion of centralized and interconnected computerized case processing systems for courts, through so-called “digital dossiers,” which substitute physical records; and the implementation of electronic signatures in keeping with the Agreed Order on Document Use and Electronic Signatures in the PJUD (Record No. 25-2009),^{152/} which adapts PJUD rules and regulations Law 19.799 of 2002.^{153/} PJUD representatives also mentioned that they belong to the electronic network linking state organs responsible for the administration of justice and that they are connected to the *ChileCompra* electronic procurement system.

[165] The PJUD also has its website (www.poderjudicial.cl), through which it supplies information to the public on its organization, functions, and legal framework; enables online consultation of the status of cases as well as judgments and rulings, jurisprudence, and agreed orders; offers information about personnel seniority listings, staffing, and salary scales; publishes competitions, tenders, and budgets and their execution; and provides in the “user assistance” section a link for members of the public to present online suggestions and complaints. In keeping with the Transparency Law, the website also features a “transparency and information” section, among other tools and components. In this regard, during the on-site visit, PJUD representatives shared their satisfaction that in 2012, for the second year in a row, this website topped the “Online Access to Judicial Information Index,”^{154/} an index maintained by the Justice Studies Center of the Americas (CEJA) for the last eight years.^{155/} The PJUD also has *Twitter*, *Facebook*, and *YouTube* accounts by which it supplies information to the public.

[166] As regards internal control mechanisms, during the on-site visit, PJUD representatives mentioned, in first place, that in the interests of transparency and appropriate use of state resources, it submits its financial statements to external audits by specialized firms hired through public tender. To that end, as the administrative organ of the PJUD, the CAPJ has an Internal Control Unit within its organizational chart, which, *inter alia*, prepares the annual plan of operational and financial audits with respect to legality and financial controls in keeping with SICOGEN, as well as operational and informal controls to validate the effectiveness, efficiency, and timeliness in recording operations. The Unit also coordinates with the external auditors for the performance of audits, which include, *inter alia*, evaluations of internal control of budget execution and fulfillment of the CAPJ’s objectives. These reports are presented to the CAPJ Superior Council and the plenary of the CSJ, as well as being

149. See: <http://goo.gl/C8KWL>

150. See: <http://www.iadb.org/es/proyectos/project-information-page.1303.html?id=ch-11058>

151. Available at: <http://goo.gl/flo6r>

152. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_acta25.pdf

153. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley19799.pdf

154. Available at: <http://goo.gl/8uY2g>

155. See: <http://www.cejamericas.org>

published on the institution's website.^{156/} By the same token, the PJUD representatives pointed out that, although the CGR does not audit the PJUD, in keeping with its annual inspection programs and in accordance with Law 10.336, the CGR examines the courts' current accounts.

[167] As with the MP and the CGR, the allocation of financial resources to the PJUD is governed by the budget law adopted each year by the National Congress based on the bill drawn up with the participation of the president of the Republic, the Ministry of Finance, and the Budget Office (hereinafter DIPRES) from the proposal prepared, in this case, by the CAPJ in accordance with the applicable provisions contained in the Constitution, COT, and Decree Law 1.263. The PJUD's budget information, including its execution, is available on its website.^{157/}

[168] In relation to mechanisms for coordination with other organs and branches of government, the PJUD has partnership agreements in place with other public entities, including the *Fiscalía Nacional Económica* (the Government's free-market competition watchdog) and Banco del Estado to strengthen certain administrative management capacities. It also has a database sharing agreement with the CGR; and agreements with the *Carabineros* police agency on a unified criminal records database, as well as with the Investigations Police, the MP, and the *Gendarmería*, among others. It should be mentioned that the PJUD is also part of the "Anticorruption Front" interagency coordination panel described above in relation to other bodies examined in this report.

[169] Finally, in keeping with Article 102 of the COT, at a public hearing at the beginning of each judicial year, the president of the CSJ submits an accountability report on the work done by the PJUD over the previous year and the activities pending for the new year ahead. The report also describes the measures that need to be adopted for improving the administration of justice and addresses doubts and difficulties in terms of intelligence and application of laws, and gaps noted therein. To that end, all the tribunals, courts, units, and other areas of the PJUD supply the appropriate information to the president of the CSJ on request. The public accountability ceremony is broadcast live from the institution's website and the document containing its report and its annexes is published in the Official Gazette and the Court Gazette, as well as on the PJUD website.^{158/}

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

[170] The PJUD has a set of provisions and/or other measures relevant for the purposes of the Convention, some of which were described in brief in section 3.1 of this report. However, the Committee believes it timely to make a number of observations in relation thereto:

[171] First, regarding the appointment of ministers of the CSJ, which, as was mentioned in the section above, involves the participation of all three branches of government, inasmuch as the PJUD nominates, the president of the Republic appoints (on the advice of the Minister of Justice), and the Senate either confirms or rejects that appointment, as appropriate, the Committee underscores the importance of this process being carried out within a reasonable time so that this high jurisdictional tribunal can have its full complement of members and carry out its constitutionally and legally mandated functions properly, particularly where judging acts of corruption is concerned. The Committee will make a recommendation in this regard bearing in mind, *inter alia*, that in his introductory remarks at the inauguration of Judicial Year 2013, the president of the CSJ said that it was "a priority for the procedure to fill the positions of ministers on the Supreme Court to be carried

156. See: <http://goo.gl/16Nq1>

157. See: <http://goo.gl/CtQJr>

158. See: <http://goo.gl/pYrM8>

out within a reasonable time. An excessive delay in that proceeding means that the highest court is without its full complement for long periods, which is not advisable for its correct functioning.^{159/} (See recommendation 3.4.1. in Chapter II of this report.)

[172] In second place, regarding the way in which human resources needs are determined and met, the Committee believes it advisable to insist on the need to continue the work of strengthening public-servant selection systems and processes in the judicial branch, on the basis of merit and of the principles of openness, equity and efficiency enshrined in the Convention, especially with respect to the positions of contractual personnel, and on the need to introduce a system of remedies for applicants, whether internal or external, to challenge decisions at each stage of those processes. The Committee will not offer recommendations in this regard, but simply reiterate its observations and those contained in the report from the second round,^{160/} bearing in mind that these aspects, among others, were analyzed in depth in that report.

[173] In third place, the Committee recognizes as a measure for ensuring the provision of human resources necessary for the PJUD to perform its functions, the relatively recent promulgation of Law 20.628, mentioned in the section above, which empowers the CSJ to transfer judges from courts with a lighter workload to those with a heavier one. However, bearing in mind what the representatives of the PJUD mentioned in the framework of the on-site visit regarding the current deficit of approximately 10 percent of judges, which, year after year, requires the temporary provision of judicial officials as well as strengthening the use of so-called itinerant courts, the Committee will make a recommendation. (See recommendation 3.4.2. in Chapter II of this report.)

[174] In fourth place, the Committee takes note of the education activities that the Judicial Academy implements through the instruction, updating, and induction programs described in the previous section for the advancement of PJUD officials and the proper exercise of their functions. In this respect, the Committee considers that it would be useful to continue to strengthen these programs by including courses and or modules on ethics, integrity, and transparency that include, *inter alia*, promotion, awareness, and compliance with the standards on professional responsibility that govern the PJUD, such as the “Principles of Judicial Ethics” and it will put forward a recommendation in that regard.^{161/} (See recommendation 3.4.3. in Chapter II of this report.)

[175] In fifth place, as was described in the preceding section, the allocation and execution of the PJUD budget is governed, *inter alia*, by the provisions contained in the contained in the General Budget Law, the annual budget laws, and the State Financial Administration Organizational Law. During the on-site visit, PJUD representatives mentioned that one task pending was to attain greater autonomy with respect to administration of the financial resources allocated to them, so as to give them room for maneuver and, thus, enable them to continue their modernization projects. To that end, provisions need to be adopted that would enable them to autonomously prepare, execute, and manage their budget. The Committee will offer a recommendation based on the foregoing. (See recommendation 3.4.4. in Chapter II of this report.)

[176] Finally, the Committee notes a series of measures that the PJUD is implementing to fulfill the objectives that it has set itself in its Strategic Plan 2011-2015, particularly through its work on implementation of the projects on institution building, personnel management, and jurisdictional

159. See “Inauguration Speech for Judicial Year 2013” by the President of the CSJ, pg. 49, available at: <http://goo.gl/pYrM8>

160. See Report of the Second Round, pgs. 10-13, 18, and 42, *supra* note 114.

161. See *supra*, note 136.

performance with the IDB, and on transparency, integrity, and accountability with the World Bank. Both projects are described in the section above and, given the scope and importance of the results that the PJUD expects to achieve with these initiatives, the Committee will make a recommendation. (See recommendation 3.4.5. in Chapter II of this report.)

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

[177] In its response to the questionnaire,^{162/} the country under review provided a number of links connected with the jurisdictional work done in 2012 by the CSJ, the Court of Appeals, and the courts of first instance. In addition, during the on-site visit, PJUD representatives furnished additional information in the form of tables,^{163/} with information for the 2007-2012 period on criminal offenses committed by public servants in the performance of their official duties,^{164/} which disclosed, among other things, the following:

PROCEEDINGS FOR CRIMES COMMITTED BY PUBLIC SERVANTS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES	YEAR						TOTAL
	2007	2008	2009	2010	2011	2012	
Opened ^{165/}	1	4	0	0	0	0	5
Ongoing	92	128	154	162	261	434	1,231
Suspended	17	16	22	22	60	144	281
Concluded	482	576	519	444	482	264	2,767
Total	592	724	695	628	803	842	4,284

CAUSE/TYPE OF CONCLUSION	YEAR						TOTAL
	2007	2008	2009	2010	2011	2012	
Abandonment of complaint	5	2	6	3	2	2	20
Order accepted (monitoring)	2	3	1	3	1	2	12
Joinder	24	26	27	21	33	25	156
Approval of decision not to investigate	46	86	23	40	36	35	266
Principle of appropriateness	17	12	5	10	26	19	89
Complaint inadmissible	3	7	12	4	12	23	61
Declaration of incompetence RPA	0	0	0	0	0	2	2
Declaration of incompetence	26	34	20	52	44	64	240
Dismissal with prejudice	101	118	151	162	249	322	1,103
Non continuation of proceeding	72	96	111	132	141	125	677
Acquittal	18	23	39	29	26	18	153
Conviction	129	137	181	136	162	156	901

162. See response of the PJUD to the questionnaires in the fourth round, pgs. 22 and 23, *supra* note 139.

163. Available at: http://www.oas.org/juridico/xls/mesicic4_chl_ing.xls.

164. Among others, these offenses include: being away without leave (Article 253 of the CP), abuses against private citizens (Article 255 of the CP), offering or accepting bribes (Article 248 of the CP), illicit enrichment. (Article 241 bis of the CP); illegal exaction by a public servant (Article 241 of the CP), defrauding the Treasury and government agencies (Article 239 of the CP), unfaithful custody of documents (Article 242 of the CP) misappropriation of public funds (Article 233 of the CP), incompatible transactions, illegal appointment (Article 220 of the CP), obstruction of justice (Article 269 bis of the CP), breach of judicial and administrative duties (Articles 223 to 229 of the CP); offering bribes (Article 250 of the CP) illegal assumption of the powers of public or judicial officials (Articles 221 and 222 of the CP), and violation of a secret. (Article 246 of the CP).

165. On September 10, 2013, the country under review clarified that this entry in the table covers proceedings opened *and abandoned*.

[178] In first place, the Committee finds that the above information serves to demonstrate that the country under review has instituted judicial proceedings for crimes committed by public servants in the performance of their official duties. However, according to the first table, the Committee highlights that in the last six years, only five proceedings have been opened in the PJUD for those crimes. Therefore, the Committee will make a recommendation to the country under review that it consider analyzing the possible causes of this situation with a view to adopting appropriate corrective measures.^{166/} (See recommendation 3.4.6. in Chapter II of this report.)

[179] In second place, based on the information in the second table, which indicates that the number of proceedings that concluded due to dismissal with prejudice and other causes is greater than the number that ended in a judgment, the Committee will make a recommendation to the country under review that it likewise consider analyzing the possible causes of this situation with a view to adopting appropriate corrective measures. (See recommendation 3.4.7. in Chapter II of this report.)

[180] Further to the foregoing, given that there is no disaggregated information available that would allow the Committee to know and analyze what grounds were invoked for ordering the dismissal with prejudice of the proceedings to which the second table refers, the Committee will make a recommendation to the country under review that it consider preparing statistics that identify the grounds, including that for prescription, which were applied in ordering the dismissal with prejudice of cases involving crimes committed by public servants, (See recommendation 3.4.8. in Chapter II of this report.)

[181] Finally, although, as was mentioned above, the information provided by the country under review serves to demonstrate that judicial proceedings have been instituted for crimes committed by public servants in the performance of their official duties, the Committee will recommend to the country under review that it prepare statistics on the judicial processes initiated—but in connection with all corruption crimes—so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or convict. (See recommendation 3.4.9. in Chapter II of this report.)

3.4. Conclusions and recommendations

[182] Based on the comprehensive review conducted with respect to the Judicial Branch in the foregoing sections, the Committee offers the following conclusions and recommendations:

[183] **Chile has considered and adopted measures intended to maintain and strengthen the Judicial Branch as an oversight body, as described in Chapter II, Section 3 of this Report.**

[184] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 3.4.1. Adopt pertinent measures to ensure that the process for filling the positions of ministers of the Supreme Court of Justice is carried out within a reasonable time, so as to avoid any possible delays in providing this Court with its full complement of judges, which could otherwise adversely affect the proper performance of its

166. On September 10, 2013, the country under review provided updated information on the table referred to in paragraph 177, which is available at http://www.oas.org/juridico/spanish/ac/mesicic4_chl_PJUD1.pdf

functions, particularly where judging acts of corruption is concerned. (See Chapter II, Section 3.2 of this report).

- 3.4.2. Consider adopting pertinent legal provisions to continue to provide and strengthen the Judicial Branch with the human resources that it needs to perform its functions properly, especially those connected with trying acts of corruption, within available resources. (See Chapter II, Section 3.2 of this report.)
- 3.4.3. Adopt pertinent measures to continue to strengthen the training, updating, and induction programs imparted by the Judicial Academy with modules on ethics, integrity, transparency, and standards on professional responsibility that govern the Judicial Branch. (See Chapter II, Section 3.2 of this report.)
- 3.4.4. Adopt appropriate measures to allow the Judicial Branch to have greater financial autonomy in the determination, administration, and execution of its budgetary resources. (See Chapter II, Section 3.2 of this report.)
- 3.4.5. Adopt pertinent measures to advance implementation of the Strategic Plan 2011-2015 of the Judicial Branch. (See Chapter II, Section 3.2 of this report.)
- 3.4.6. Prepare broken-down statistical information on the proceedings instituted in the Judicial Branch with respect to crimes committed by public servants in the performance of their official duties, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 3.3 of this report.)
- 3.4.7. Conduct an analysis of the possible causes leading to the number of cases involving crimes committed by public servants in the performance of their official duties that end in a dismissal with prejudice or that are closed for other reasons is higher than the number of cases that end in a judgment, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 3.3 of this report.)
- 3.4.8. Prepare statistics that identify the grounds, including that for prescription, which were applied in ordering the dismissal with prejudice of judicial proceedings for crimes committed by public servants, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 3.3 of this report.)
- 3.4.9. Prepare statistics on judicial processes initiated in connection with all corruption crimes, so as to know how many are ongoing, suspended, prescribed, closed without a decision adopted, ready for a decision, or have had a decision adopted on merits, and whether the decision was to acquit or convict, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 3.3 of this report.)

4. FINANCIAL ANALYSIS UNIT

4.1. Existence of a legal framework and/or other measures

[185] The Financial Analysis Unit (UAF) has a set of provisions in its legal framework and other measures concerning, among others, the following:

[186] According to Article 1 of the Law Creating the Financial Analysis Unit and Amending Various Provisions on Money Laundering (Law No. 19.913 of 2003) (hereinafter Law 19.913),^{167/} the UAF is a decentralized public entity with independent legal status and capital that links to the Office of the Presidency of the Republic through the Ministry of Finance. Its purpose is to prevent and impede the use of the financial system and other sectors of economic activity for the commission of the offense of money laundering arising from any of the predicate offenses identified in Article 27 of Law 19.913, which include ones connected with acts of corruption, such as breach of public duty, embezzlement of public monies, fraud and extortion, use of privileged financial information for self-gain, bribery, and bribery of a foreign public official.^{168/}

[187] Under Article 2 of Law 19.913, the UAF, among other functions and powers, develops financial intelligence processes aimed at detecting signs of suspected money laundering and financing of terrorism (hereinafter ML/FT) operations; issues standards for supervised economic sectors, monitors compliance with those standards, and imposes administrative penalties on their violation; and disseminates public information for the purpose of protecting the State and its economy from the adverse effects of ML/FT. In that regard, Article 2 also provides that the UAF may perform and exercise its functions anywhere in the country, but in no circumstances may it exercise the authority that pertains to the MP or the courts of justice. Furthermore, it may only use the information that it receives for the purposes recognized by law and in no case may it disclose or give it to agencies or services other than the MP.

[188] As regards the way in which it adopts decisions, the director of the UAF, the head of the Unit, in accordance with his or her powers under Article 2 of Law 19.913, adopts resolutions issuing instructions requiring supervised entities to report to the UAF and verify their implementation; refers any cases in which indicia of crime are detected, and imposes administrative penalties in accordance with law. In that regard, in the course of the on-site visit, representatives of the UAF provided additional information, referring to the legal challenges that may be brought against the above resolutions, specifically those that impose penalties, for which a motion for reversal may be admitted, as recognized in Article 59 of the Framework Law on Administrative Procedures Governing the Acts of Government Organs (Law 19.880),^{169/} pursuant to Article 23 of Law No. 19.913, as may a motion for illegality, which, according to Article 24 of Law 19.913, is lodged with the relevant Court of Appeals if it is considered that such resolutions are not lawful. The UAF representatives also mentioned that the resolutions containing regulations as well as punitive ones are published on the institution's website.^{170/}

[189] As was noted above, the director of the UAF is the highest authority in the institution, who, under Article 8 of Law 19.913 represents the Unit in legal, judicial, and extrajudicial matters and has the power to execute such decisions and enter upon such contracts as may be necessary or advisable to fulfill its purposes. As regards their appointment, during the on-site visit, UAF representatives said that the position of director is filled through the High Public Executive Council [*Consejo de Alta Dirección Pública*],^{171/} which is part of the National Directorate of the Civil Service and its purpose is to assist the President of the Republic, ministers, and service heads in making decisions for filling senior public executive posts, which are trust positions, as well as conducting the selection process.

167. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley19913.pdf

168. See response of to the UAF to the questionnaire for the fourth round, pg. 3. Available at. http://www.oas.org/juridico/PDFs/mesicic4_chl_uaf.pdf

169. Available at: http://www.oas.org/juridico/pdfs/mesicic4_per_17.pdf

170 See: <http://www.uaf.cl/legislacion/sanciones.aspx>

171. See: <http://www.serviciocivil.gob.cl/node/7>

As one of the senior public executives appointed through the High Public Executive System, the Director of the UAF serves for a three-year term, renewable twice for the same length of time. It is a trust position and, therefore, their resignation may be requested at any time by the authority with the power to appoint them, in this instance, the President of the Republic. As an executive attached to the High Public Executive System, the director of the UAF signs a three-year performance agreement with his or her immediate superior, which serves the dual purpose of guiding and evaluating their performance.

[190] As regards the selection procedure for appointing the director, UAF representatives mentioned during the on-site visit that the High Public Executive Council or a selection committee designated by the latter, holds a public competition in order to choose candidates, who are then proposed to the President of the Republic. The competition procedure is confidential and begins with a vacancy announcement for the position in a print media outlet. Then, a specialized recruitment firm examines the candidates' *curricula vitae*, conducts a background check, holds the necessary interviews, and submits to the High Public Executive Council or selection committee a list of preselected candidates.

[191] On the question of human resources, Article 11 of Law 19.913 provides that the staff and contractual employees of the UAF are governed by the Administrative Statute, with the exceptions that the same law establishes. The Unit's management staff are trust appointments named by the director and, therefore, subject to appointment and removal at the latter's complete discretion. During the on-site visit, UAF representatives provided additional information, explaining, in first place, that the Unit determines its personnel needs, among other aspects, in line with its strategic and operating plans, and on that basis, draws up the institution's budget which is submitted to DIPRES.

[192] Secondly, they said that there are no discretionary appointees in the Unit, but that its staff positions are filled in accordance with the Civil Service Career Personnel Management Policies on entry to and promotion in the civil service,^{172/} as well as through the Public Sector Employment System managed by the National Directorate of the Civil Service.^{173/} Specifically, they argued that entry to the UAF is through competitive processes based on merits and suitability and in accordance with Title II of Executive Decree 69 of 2004 issued by the Ministry of Finance.^{174/} Regarding the regime of disqualifications, incompatibilities, and responsibility for their actions, UAF personnel are governed, *inter alia*, by Article 11 of the Administrative Statute and related provisions contained in Law 19.913 and Article 54 *et seq.* of Law 18.575.

[193] As for the existence of manuals and other documents describing the functions of its staff, during the on-site visit, UAF representatives mentioned the existence of Resolution 233 of 2011,^{175/} which adopts, among other things, the institutional posts manual, which is continuously updated and includes the crosscutting and specific competencies required for each position. The manual is complemented by the dictionary of competencies, which have been defined as critical competencies for the performance of duties and are considered important for fulfilling the UAF's institutional objectives. These competencies are measured annually for each member of staff by means of a training needs detection form, which has the purpose of identifying gaps between the job description and the work done by the member of staff. A training plan is then implemented to narrow these gaps,^{176/} which addresses any shortcomings found as well as other requests for specialized training on

172. See: <http://www.serviciocivil.gob.cl/pol%C3%ADticas-de-gesti%C3%B3n-de-personas-carrera-funcionaria>

173. See: <http://www.empleospublicos.cl/>

174. See: http://www.empleospublicos.cl/documentos/ds_692004.pdf

175. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_res233.pdf

176. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_plan.pdf

a specific topic or interest in a new skill. At the end of each activity, the knowledge acquired is evaluated using another satisfaction instrument to determine if the training has been effective.

[194] With respect to the existence of documented procedures, manuals, or guidelines for carrying out its work, in the course of the on-site visit, UAF representatives mention that in addition to the institutional posts manual, a procedures review was carried out in 2010 on each area.^{177/} The review describes the processes carried out in connection with each task or function. The purpose of this initiative is to improve compliance processes by the various areas of the UAF. It is a dynamic process that is updated according to each area's needs.

[195] UAF representatives also said that many of the measures it provides with respect to institution strengthening and service quality improvement are related to the expansion and development of information and communication technology tools necessary for it to function efficiently. In that connection, they explained that the Unit's network architecture is divided into various segments depending on the purposes of their use. The segments can be grouped in a zone for accessing web services, such as the "corporate website" and the "reports website"; an intermediate zone with appropriate levels of protection, which is used for daily administrative work, Internet use, e-mail, the websites' database storage; and a secure zone without Internet access where the database and systems for financial intelligence work resides, which can only be accessed from a virtual desktop. The above, they said, relies on highly advanced technology to protect system security. The UAF also has modern systems for secure submission of cash transaction reports (hereinafter ROE), suspicious transaction reports (hereinafter STR), and declarations of transportation of currency or monetary instruments (in Spanish, DPTE), using forms for that purpose. The Unit has separate administrative and analysis intranet systems, both with secure access, as well as a data-mining tool (*SPSS Modeler*) for conducting strategic analysis and creating ML/FT prevention models, among other systems.

[196] As regards mechanisms for supplying the public with information about its objectives and functions, the UAF has, in first place, its website (www.uaf.gob.cl), which offers relevant information about the Unit's activities, mission, vision, strategic objectives, and details on the workings of the National ML/FT Prevention System. The site also serves to publish updated instructions for the individuals and legal persons mentioned in Article 3 of Law 19.913, as well as up-to-date statistics, agreements in force, and information for the press, among other features. The site also has a link to the Comprehensive Public Information and Assistance System (hereinafter SIAC),^{178/} which serves to receive, manage, and respond to requests and queries from members of the public within a reasonable time and subject to legal constraints, as well as to address complaints connected with the fulfillment of its objectives. The website also has, as a legal requirement, a banner titled "*Gobierno Transparente*" [Transparent Government], which discloses, in detail, information that the unit is required to make available to the public under the Transparency Law.

[197] In this context, during the on-site visit, UAF representatives drew attention to the recent adoption of Resolution No. 10 of 2013,^{179/} which adopts the UAF's General Rules on Citizen Participation, which governs the ways in which individuals and legal persons may interact with the UAF within the terms permitted by law. They also mentioned that the UAF had put into effect a disclosure and transparency policy with the aim of complying in full with the legal function of preventing and impeding money laundering and reporting the results of its oversight, regulatory, and

177. During the on-site visit, this document was displayed to the members of the Review Subgroup and Technical Secretariat owing to its strictly confidential nature.

178. See: <http://www.uaf.cl/contactenos/index.aspx>.

179. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_res10-2013.pdf

punitive activities; as well as the launch of Plan 2010 on Dissemination of Anti-Money Laundering Standards, under which the Unit has been pursuing a series of activities,^{180/} such as workshops, seminars, and e-learning courses aimed at encouraging measures to prevent the financial system or other economic sectors from being used to commit ML/FT-related offenses.

[198] With respect to internal control mechanisms, in the course of the on-site visit, UAF representatives mentioned that the Unit has an Internal Audit Area, which advises the director on internal control, administrative integrity, and comprehensive risk management. Its principal functions include preparation and execution of the annual audit plan; evaluation of the Unit's internal control system; assessment of the efficiency and effectiveness with which human, financial, technical, information technology, and material resources are used; and preparation and follow-up on audit reports, of which the management are promptly notified in order to alert them to possible anomalies, irregularities, weaknesses, and failures detected in terms of processes and legal infractions, and which require improvement and/or corrective measures. By legal mandate, the Internal Audit Area coordinates technically on a permanent basis with the General Government Internal Audit Council (hereinafter CAIGG).

[199] As regards mechanisms for ensuring budgetary resources, Transitory Article 5 of Law 19.913 provides that the President of the Republic, by means of an executive decree issued through the Ministry of Finance, shall create the respective chapter on revenue and expenditure for the UAF budget. To that end, and in keeping with its Strategic and Operational Plans, the Unit identifies, *inter alia*, its financial needs and on the basis thereof draws up a budget which it submits to DIPRES for inclusion in the National Budget Law for the relevant year, after complying with the necessary formalities and stages of the legally determined budget cycle. Information about the UAF budget from 2004 to 2012 may be consulted, along with other data, on the DIPRES website.^{181/}

[200] As to coordination mechanisms, the UAF has entered into a number of agreements and strategic partnerships with various public sector entities, including the MP, the CGR, the Ministry of Finance, the National Customs Service, and the National Directorate of the Civil Service, as well as with private institutions, with the aim of standardizing functions, sharing information, expediting processes, and obtaining support to enable it to carry out its responsibilities in full. A number of these agreements and strategic partnerships are available for consultation under the "Institutional Cooperation" section of the UAF website.^{182/}

[201] Finally, with respect to accountability mechanisms, Article 13 of Law 19.913 provides, *inter alia*, that whomever provides services to the UAF, in any capacity, is required to maintain in strict secrecy all information and any other particular that come to their attention in the performance of their duties and that relates directly or indirectly to their functions and activities; and it establishes penalties for anyone who breaches this obligation. However, Article 13 provides that this does not prevent the director of the UAF from disclosing or providing general, non-personalized information for exclusively statistical or management purposes. Furthermore, the director of the UAF is required by law to attend an annual secret meeting of the House of Deputies Finance Committee in order to present a general performance report.

[202] In the course of the on-site visit, UAF representatives supplied additional information, stating that there were other ways of providing information to the public. One is through the presentation and

180. See: <http://www.uaf.cl/difusion/actividades.asp>

181. See: <http://www.dipres.gob.cl/595/w3-propertyvalue-14432.html>

182. See: <http://www.uaf.cl/cooperacion/publicas.aspx>

publication of institutional performance reports^{183/} and statistics.^{184/} The institutional performance reports summarize the annual results in terms of money laundering prevention, oversight, public-private partnership, participation in international agencies, and dissemination, among other aspects, including challenges identified for the coming year. The institutional statistics reports contain the UAF's results in performing its functions in the areas of financial intelligence, regulation, oversight, penalties, laws and regulations, and dissemination activities for ML/FT prevention. Both documents are published on the Unit's website.

[203] Another mechanism is "public accountability reporting," envisaged in paragraph 2 of Resolution No. 10 of 2013, which adopts the UAF's General Rules on Citizen Participation. Under article 5 of the resolution, the UAF's public accountability reporting is done virtually through the publication of information on its website, "*ensuring at all times that its three component stages are complied with: management performance report; a period for citizens to present queries and observations; and, finally, the service's response to the queries made.*"^{185/}

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

[204] The UAF has a set of provisions and/or other measures that are relevant for promoting the purposes of the Convention, some of which were succinctly described in section 4.1. Nevertheless, the Committee considers it appropriate to set forth some observations with respect to these provisions and/or other measures:

[205] In first place, the Committee recognizes the existence of the institutional posts manual, the dictionary of competencies, the post description form, and the competencies profile, all of which were adopted by Resolution No. 233 of 2012. These documents, which describe, among other aspects, the duties of the Unit's personnel, were made available to the Committee in hardcopy during the on-site visit. However, given the content and scope of the information that they contain, the Committee believes that it would be useful for them to be available in digital form on the UAF website, in the interests of transparency and for ease of consultation by those interested, with the exception of the information on the positions of financial intelligence analysts and oversight officers. (See recommendation 4.4.1. in Chapter II of this report.)

[206] In second place, as regards training, the Committee had access to information concerning UAF Training Plan 2012 (executed), as well as UAF Training Plan 2013, which is to be implemented in 2013; however, it was unable to identify, either in these plans, or in the annual institutional performance reports available on the Unit's website, training courses or modules on investigation of corruption-related offenses, such as breach of public duties, misappropriation of public funds, offering or accepting bribes, or bribery of foreign public official, which are identified under the law as predicate offenses for money laundering. (See recommendation 4.4.2. in Chapter II of this report.)

[207] Along similar lines, based on the information available to it, the Committee also notes that it would be useful to include specific panels on prevention of corrupt practices in the various dissemination activities on ML/FT prevention that the UAF directs at supervised entities, among others. (See recommendation 4.4.3. in Chapter II of this report.)

183. Available at: <http://www.uaf.cl/acerca/balance.aspx>

184. See: <http://www.uaf.cl/estadisticas/>

185. See *supra*, note 175.

[208] In third place, the Committee recognizes the various accountability mechanisms that the UAF has in place, including the obligation of the Director to attend an annual secret meeting of the House of Deputies Finance Committee to present a general performance report, as well as the preparation and publication of annual institutional performance reports and statistics, which it publishes on its website. In that connection, the Committee also acknowledges the adoption of Resolution No. 10 of 2013, which approves the concept of “public accountability reporting” as a citizen participation mechanism that, according to said resolution, ensures the right of persons to participate in the policies, plans, programs, and measures that the UAF adopts and implements. In the opinion of the Committee, the foregoing contributes to achieving the purposes of the Convention and, in that regard and bearing in mind the resolution’s relatively recent adoption, it suggests that the country under review, through the UAF, consider to continue adopting the necessary provisions and measures to implement the different stages of the participatory public accountability reporting process in accordance with paragraph 2 of the resolution. (See recommendation 4.4.4. in Chapter II of this report.)

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

[209] The response to the questionnaire of the country under review and the on-site visit yielded information on the UAF, notably the following:

[210] In first place, although the functions of the UAF do not, strictly speaking, include prevention of corruption, in carrying out its objective to prevent ML/FT with respect to the predicate offenses from which it originates, in conjunction with various government superintendencies, it has issued a number of circulars, such as UAF No. 49 of 2012,^{186/} which informs the financial system and other economic sectors about measures that they should adopt with respect to operations and transactions undertaken by clients with Politically Exposed Person status. These measures are put into place to prevent and detect acts of money laundering originating from possible acts of corruption committed by high-ranking national or foreign public officials. In addition, the UAF and more than 20 public- and private-sector entities and civil society organizations have come together in the campaign “*No mancho mi conciencia. Vivo sin corrupción*” [“I don’t stain my conscience - I live corruption free”],^{187/} which was started by the CGR, with support from the UNDP, to raise public awareness about the importance of combating corruption and applying best practices through which to prevent such acts.

[211] In second place, although the UAF’s functions, strictly speaking, do not include either detection of acts of corruption that generate some form of liability, in its response to the questionnaire,^{188/} the country under review says that “*when suspected money-laundering operations are analyzed certain background information may be recognized that could link the suspected operation to a corruption-related predicate offense, allowing a purely statistical classification to be made.*” In that connection, during the on-site visit, the country under review supplied the following information^{189/}:

186. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_cir049.pdf

187. See *supra*, note 120.

188. See response of the UAF to the questionnaire for the fourth round, pg. 21, *supra* No. 164.

189. On August 12, 2013, the State under review provided the following information updated to June 2013, available at: http://www.oas.org/juridico/spanish/ac/mesicic4_chl_UAF.pdf

FINANCIAL INTELLIGENCE STR for corruption	YEAR						TOTAL
	2007	2008	2010	2011	2012	2013*	
Database**	5	4	2	1	1	0	13
Sent to the MP	0	1	0	2	3	1	7
In pre-committee	0	0	0	0	1	2	3
TOTAL	5	5	2	3	5	3	23
<i>Information for 2009 not available; * To April 2013; ** Because no evidence of money laundering was disclosed</i>							

FINANCIAL INTELLIGENCE STR for PEP	YEAR					TOTAL
	2005	2008	2011	2012	2013	
Database**	0	1	1	5	2	9
Sent to the MP	1	0	0	2	0	3
TOTAL	1	1	1	7	2	12
<i>Information for 2006, 2007, 2009, and 2010 not available; * April 2013; ** Because no evidence of money laundering was disclosed</i>						

[212] The Committee finds that the above information could serve to demonstrate that corrupt acts have been detected in the country under review as predicate offenses for ML/FT, and that those acts were referred to the MP for investigation.

[213] However, taking into account what Chile said in its response to the questionnaire^{190/} that “it should be established that it is not the responsibility of the UAF to make a legal assessment of the predicate offense connected with a suspected act, transaction, or operation that has been reported to the Unit by one of the regulated persons mentioned in Article 3 of Law 19.913,” the Committee believes that it would be useful to examine the possibility of strengthening the way in which the UAF prepares and maintains its statistics on the detection of signs of suspected ML/FT operations, through mechanisms that would make available precise data on the number of STRs recorded each year in connection with corruption-related predicate offenses; how many were referred to the MP for appropriate action. (See recommendation 4.4.5. in Chapter II of this report.)

4.4. Conclusions and recommendations

[214] Based on the comprehensive review conducted with respect to the Financial Analysis Unit in the foregoing sections, the Committee offers the following conclusions and recommendations:

[215] Chile has considered and adopted measures intended to maintain and strengthen the Financial Analysis Unit as an oversight body, as described in Chapter II, Section 4 of this Report.

[216] In light of the comments made in the above-noted section, the Committee suggests that the country under review consider the following recommendations:

- 4.4.1. Publish on the website of the Financial Analysis Unit the institutional posts manual, the dictionary of competencies, the post description form, and the competencies profile, as well as their respective updates. (See Chapter II, Section 4.2 of this report.)

190. See response of the UAF to the questionnaire for the fourth round, pg. 21, *supra* No. 168.

- 4.4.2. Adopt the necessary measures to strengthen the training plans of the Financial Analysis Unit with courses or modules on investigation of corruption-related offenses, such as breach of public duties, misappropriation of public funds, offering or accepting bribes, or bribery of foreign public official, which are identified under the law as predicate offenses for money laundering. (See Chapter II, Section 4.2 of this report.)
- 4.4.3. Adopt the necessary measures to strengthen the dissemination programs and activities that the Financial Analysis Unit implements with panels or other specific activities on prevention of corrupt practices. (See Chapter II, Section 4.2 of this report.)
- 4.4.4. Continue to adopt the necessary provisions and measures to implement the different stages of the participatory public accountability reporting process in accordance with paragraph 2 of Resolution No. 10 of 2013 of the Financial Analysis Unit. (See Chapter II, Section 4.2 of this report.)
- 4.4.5. Adopt the necessary measures to strengthen the way in which the Financial Analysis Unit prepares and maintains statistics on the detection of signs of suspected money laundering and financing of terrorism operations, through mechanisms that would make available precise data on the number of suspicious transaction reports recorded each year in connection with corruption-related predicate offenses; how many were referred to the Public Prosecution Service for appropriate action, in order to identify challenges and recommend corrective measures. (See Chapter II, Section 4.3 of this report).

III. BEST PRACTICES

[217] In accordance with Section IV of the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round* and the *Format* adopted by the Committee for the Reports of said Round, references is made to the best practices identified by the country under review, which it has expressed its wish to share with the other member States of the MESICIC, as it could be beneficial to them:

[218] **With respect to the Office of the Comptroller General:**

[219] – The *Semáforo Municipal* [Municipal Traffic Light], a mechanism by which^{191/} the CGR publishes the status of compliance by municipalities with their monthly obligation to send budgetary and accounting information to the CGR. With the aim of displaying that compliance graphically, the idea was conceived of a compliance “traffic light,” with a green circle if all reports have been processed by the CGR; an amber circle for reports being processed, and a red circle if the municipality has not submitted a report for the month in question. In addition, the cumulative budgetary progress report for each year is available for consultation, showing the amounts for the initial budget, the updated amount, execution, and execution percentage for each revenue or expenditure account opened under the budget classification system. Further information may be obtained by consulting the response of the country under review on “Best Practices.”^{192/}

191. See: <http://goo.gl/OQPWO>

192. See response of the CGR to the questionnaire for the fourth round, pgs. 48 to 56, *supra* note 77.

[220] In addition, during the on-site visit, CGR representatives provided the following information on best practices:

[221] – The *Portal Contraloría y Ciudadano* [Comptroller and Citizen Portal]: This is an initiative by which complaints alleging administrative irregularities can be submitted online, as can citizens’ oversight suggestions in the audit planning process.

[222] – The *Portal de Unidades de Control Interno* [Internal Control Units Portal], which, in keeping Article 18 of Law 10.336, allows the CGR to exercise technical coverage of the audit or internal control units of supervised entities. The purpose of the portal is to strengthen coordination between the CGR and those units to allow the exchange of experiences, dissemination of best practices, and sharing of information through a system of collaboration and shared knowledge, with a view to strengthening the role of internal control units as the first line of defense against irregular conduct.

[223] – *Agendas Públicas* [Public Agendas]: Publication and continuous updating on the CGR website of the activities of senior CGR officials (Comptroller General, Deputy Comptroller General, division chiefs, and regional comptrollers). It is a transparency practice adopted voluntarily by the CGR.

[224] – The *Portal de Asociativismo Regional y Local* [Regional and Local Partnership Portal]: A website created in July 2012 that consolidates information, the regulatory framework, and relevant case law on the corporations governed by private law set up in partnership with regional and local governments. It includes a document library with specialized files on such matter.

[225] – Disclosure of audit reports: In 2007, the CGR began publishing complete information on its website on the results of its audits.

[226] - The Anticorruption Portal (www.anticorruccion.cl): a joint initiative of the CGR, the State Defense Council, and the MP, launched on July 24, 2013, as part of the “Shared Use of Information to Improve the Fight against Corruption in Chile” project.^{193/}

[227] **With respect to the Judicial Branch:**

[228] – *El Presidente Responde* [The President Answers]: An electronic form available on the PJUD website that members of the public can use to submit to the President of the CSJ complaints,^{194/} queries, and suggestions regarding the workings and quality of assistance received at the country’s various courts. It does not including aspects regarding the review, amendment, or reversal of judgments and decisions adopted by the courts of justice. Further information in this regard may be obtained by consulting the response of the country under review on “Best Practices.”^{195/}

[229] **With respect to the Financial Analysis Unit**^{196/}

[230] – Quarterly publication of the administrative sanctions ordered against regulated entities for noncompliance with money-laundering regulations. This publication includes the identification of the

193. This information was reported by the State under review on August 12, 2013.

194. See: http://www.poderjudicial.cl/modulos/ATUsuarios/ATU_PresidenteResponde.php?opc_menu=5&opc_item=1

195. See response of the PJUD to the questionnaire for the fourth round, pg. 12. 26, *supra* note 139.

196. This information was reported by the State under review on August 12, 2013.

person receiving the sanction, the economic sector, the reasons for it, and full resolution, and its available in the 'sanctions' section of the agency's web site:

[231] – Publication of categories of Politically Exposed Persons (PEPs), and a template form for declaring such relationships, both of which are available on the agency's web site.

[232] – Preparation of an Official's Probity Manual (currently being developed), which defines administrative responsibilities and the grounds for post disqualifications and incompatibilities.

[233] – Selection and hiring of professional, technical and administrative staff through public competitions, publicized on the Senior Public Management and Public Employment web sites.

[234] – Public Procurement Procedure for goods and services using the web site www.mercadopublico.cl.

[235] – Permanent feedback for the regulated sectors, through the preparation and publication of Reports on Money Laundering Types and Alerts containing those cases covered by a final conviction, available on the agency's web site; also, training via e-learning and the dissemination of the agency's management results, through public outreach activities.

[236] – Issuance of a set of recommendations to strengthen the money-laundering preventive measures implemented by the sectors regulated by the Service when they deal with PEPs, available on the 'best practices' section of the agency's web site at <http://www.uaf.cl/acerca/mejores.aspx>.

IV. FOLLOW-UP ON PROGRESS AND NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO THE IMPLEMENTATION OF RECOMMENDATIONS SUGGESTED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW^{197/}

[237] The Committee will refer below to the progress, information, and new developments made by Chile in relation to the recommendations and measures suggested by the Committee for implementation in the Report of the First Round, and with respect to which the Committee deemed that additional attention was required in the framework of the Second and Third Rounds,^{198/} and shall, as appropriate, take note of those that have been satisfactorily considered and those that require additional attention from the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and measures and, as applicable, restate or reformulate them pursuant to section VI of the Methodology adopted by the Committee for the Fourth Round of Review.

[238] The Committee will also take note in this section of the Report of the difficulties in implementing the aforementioned recommendations and the measures to which the country under review has drawn attention, as well as of its technical cooperation needs to that end.

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

198. Available at: <http://www.oas.org/juridico/english/chl.htm>

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

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

Recommendation:

Strengthen the provisions with respect to the standards of conduct intended to prevent conflicts of interest during and after leaving public office, and the systems for reviewing the content of sworn statements on disqualifications and statements of interests.

[239] In its response to the questionnaire,^{199/} the country under review presents information and new developments with respect to the foregoing recommendation in general. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following:

[240] The “Government Procurement Audit Framework Program,” developed in 2012 by the CAIGG, is applied to the majority of public-sector entities and provides for the review of mitigating controls for preventing conflict of interest through the inclusion in award documents of a standard clause whereby the members of the committee awarding the good or service declare that they have no interest or any kin or corporate societal relationship with the partners in the enterprises or individuals awarded the contract.

[241] The initial certifications that the CAIGG annually requests from the service chiefs of public sector agencies in which they declare, *inter alia*, that they have not engaged in any activities, nor adopted any decisions, nor are in a position that would entail a conflict of interest with the public duties that they perform, and that they are not aware of any conflict of interest that might affect the supervisors and civil servants that work in their institution.

[242] The “Government Procurement Operational Controls” document,^{200/} issued by the CAIGG through Official Communication 378/12, describes minimum controls and best practices that should be applied by state entities in their procurement activities, including a number of basic procedures for ensuring that officials with evaluation and/or decision-making powers have no conflict of interest with suppliers or vendors.

[243] The Committee takes note of the steps taken by the country under review to advance in its implementation of the foregoing recommendation, given that they address the element thereof that refers to strengthening provisions with respect to the standards of conduct intended to prevent conflicts of interest in the performance of public duties, as reflected in the best practices alluded to previously. However, the Committee believes that the country under review needs to continue to give attention to said recommendation, bearing in mind that the provisions to which it refers have yet to be adopted. As regards the other elements of this recommendation, concerning strengthening of the standards of conduct intended to prevent conflicts of interest after leaving public office, and the systems for reviewing the content of sworn statements on disqualifications and statements of interests, referred to, in order, by measures (a), (b), and (c) of the recommendation, below, the Committee will evaluate the information provided by the country under review on their implementation.

199. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 1-10, available at: http://www.oas.org/juridico/PDFs/mesicic4_ch1_anex1.pdf

200. Available at: <http://www.auditoriainternadegobierno.cl/index.php/menu/ShowFile/id/153>

Measure (a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

(a) *Supplement the restrictions provided in the law for those who leave public service, including, when appropriate, other situations that could constitute conflicts of interest following the departure of the public official, applicable for a reasonable period of time after said departure*

[244] In its response to the questionnaire,^{201/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following:

[245] – CGR Opinions Nos. 849/2008^{202/} and 9.470/2012^{203/} The latter reconsiders Opinions Nos. 22.990/2000 and 22.981/2001 in relation to Article 56(3) of Law 18.575 which provides that it constitutes a conflict of interest for former authorities or employees of an oversight institution to work in private entities subject to the oversight of the institution at which they served, and that, in contrast to what normally occurs with the liability of public servants for breach of a given obligation, which is extinguished when they are terminated, the aforementioned conflict of interest does not disappear with said termination but, rather, as the infringing person has the status of former civil servant, the administrative liability arising from their violation must be enforced.

[246] – The amendment^{204/} to the draft Lobby Law (*Boletín* No. 6189-06) introduced in May 2012, which broadens the scope of the proposed law, so that it applies not only to the lobby but also to any undertaking representing private interests before the public authorities mentioned therein. The substantive amendment also eliminates the list of entities whose activities are not regarded as lobbying; includes new authorities and officials that may be subject to lobbying or other undertakings representing private interests; and imposes a fine on any authorities or officials that fail to register information that they are required to record or do so inaccurately or falsely, among other provisions.

[247] In this regard, it is worth mentioning that the document submitted by *Chile Transparente* notes that “the draft law that regulates lobbying, continues to be debated in the House of Deputies and has undergone various amendments. The latest substantive amendment was introduced by the executive in May 2012, completely altering the content of the original draft. The new draft is basically limited to regulating the registration of meetings between authorities and other persons; it no longer regulates the activities of lobbyists and, therefore, no longer includes the ban preventing authorities, parliamentarians, and certain civil servants from engaging in lobbying activities for two years after leaving office.”^{205/}

[248] Furthermore, during the on-site visit, representatives of the Ministry and General Secretariat of the Presidency referred, among other topics, to the draft law that establishes prohibitions against civil servants occupying positions in private institutions previously subject to their oversight (*Boletín* No. 4186-07), which, since its approval in general and referral to the Joint Constitutional and Labor Committee and the Finance Committee for a second report in March 2008, has remained as a matter

201. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 5 and 10, *supra* note 199.

202. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dic849.pdf

203. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dic9470.pdf

204. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_lobby.pdf

205. See response of *Chile Transparente* to the questionnaire for the fourth round, pgs. 13 and 14, *supra* note 3.

of “urgency” in its first constitutional reading. However, they mentioned that this bill and the draft lobbying law are expected to be approved by the end of President Sebastián Piñera’s term.

[249] On the subject of the foregoing, the document submitted by *Chile Transparente* states, “*In order to implement the measures suggested by the Committee in full, we believe that it would be advisable for discussions in Congress to resume on the amendments introduced by the draft law that ‘Establishes prohibitions for civil servants to occupy positions in private institutions previously subject to their oversight,’ either by reactivating the draft law or through the introduction of a new bill.*”^{206/}

[250] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation in Chapter IV, Section 1.1 of this report, which are reflected in the measures adopted by the CGR, as well as in the above-mentioned proposed laws. It also notes the need for the country under review to continue giving attention thereto, bearing in mind that neither bill has completed the process for becoming law and that, according to the Report from the First Round, the intention of suggested measure (a) is that the country under review address “*situations that could entail conflicts of interest and would not be limited to supervisory institutions nor labor relationships with entities subject to supervision. To this end, consideration should be given to measures such as prohibiting those who held public office from dealing in any way with official matters of which they were cognizant or from appearing before entities in which they had recent ties and, generally, all situations that could lead to the improper utilization of one’s status as a former public official.*”^{207/} (See measure (a) in section 1.1. of Appendix I to this report).

Measure (b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- b) Strengthen systems that make it possible to ensure that agency personnel and internal control units carry out on a timely basis and when appropriate the verification or review of the information contained in the sworn statements on disqualifications and statements of interests.*

[251] In its response to the questionnaire,^{208/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following:

[252] – The draft Integrity in Public Office Law introduced to Congress in May 2011 (*Boletín* No. 7616-06),^{209/} which was approved in general and in its specifics by the House of Deputies in March, 2012, and is currently undergoing its second constitutional processing before the Senate. The purpose of this bill is to unify the standards in force on declarations of assets and interests and to introduce new obligations for the authorities and civil servants to whom they apply, as well as for other authorities that are not part of the state administration. The bill extends the obligation to file and update such declarations to authorities and civil servants who are not currently required to do so and regulates new mechanisms on prevention of conflict of interest in the civil service, establishing the

206. *Ibid.*

207. See “Final Report on Implementation in the Republic of Chile of the Convention Provisions Selected for Analysis within the Framework of the First Round,” pgs. 7, available at: http://www.oas.org/juridico/english/mec_rep_chi.pdf

208. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 9 and 12, *supra* note 199.

209. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_prob.pdf

obligation for certain authorities to set up a discretionary securities management mandate and to transfer assets in exceptional situations where the mandate is unable to resolve a particular conflict of interest, among other aspects.

[253] In relation to the foregoing, *Chile Transparente* notes in its document that “as the Committee found in the Third Round Report with respect to the original bill, the new draft [Integrity in Public Office Law] also grants the Office of the Comptroller General express authority to inspect the accuracy and completeness of declarations of interests and assets, including the possibility of requesting information from other public sector organs, such as the Internal Tax Service, the Superintendency of Securities and Insurance, and the Superintendency of Banks and Financial Institutions,” and that “these new standards would represent a substantial advance in terms of transparency and prevention of corruption in the country and would enable it to be in compliance with the measure suggested by the Committee, for which reason we believe it would be advisable that they be approved and implemented in short order.”^{210/}

[254] – CGR Opinions No. 4.864/09 , which reiterate the instructions of the CGR regarding the declaration of interests and assets, as well as highlighting the rules on administrative liability for those required to comply with such obligations, in particular, Opinions Nos. 26.104/00 and 17.152/06 in that regard.^{211/}

[255] – The inclusion on the CGR website of the portal for the internal audit and control units of public sector entities that includes an interactive forum for resolving doubts and queries based on existing administrative jurisprudence and for disseminating best practices within those units.^{212/}

[256] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 1.1 of Chapter IV of this report, which are reflected in the measures adopted by the CGR and in the aforementioned draft law. It also notes the need for the country under review to continue to give attention to said measure, bearing in mind that the above bill has not yet become law. (See measure (b) in section 1.1. of Appendix I to this report).

Measure (c suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- c) *Ensure the applicability of punishments of public servants that infringe upon laws on conflicts of interests.*

[257] In its response to the questionnaire,^{213/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following:

[258] – CGR Opinions Nos. 8.403/12; 9.722/12; 24.951/12; 26.136/12; 45.063/11; 45.798/11; 75.791/11; 39.453/10 and 39.500/10 which refer to the standards on conflict of interest and how they apply to various public authorities.^{214/}

210. See response of *Chile Transparente* to the questionnaire for the fourth round, pg. 14, *supra* note 3.

211. These opinions are available at: http://www.oas.org/juridico/spanish/mesicic4_chi.htm

212. Available at: <http://goo.gl/IwhTB>

213. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 13 and 14, *supra* note 199.

[259] In this regard, during the on-site visit, representatives of the Ministry and General Secretariat of the Presidency provided additional information explaining the content and scope of CGR Opinion No. 4.864/09,²¹⁵ which reiterates the instructions of the CGR regarding the declaration of interests and assets, as well as highlighting the rules on administrative liability for those required to comply with such obligations. It also mentions in its last paragraph that, “*under Article 65 (1) and (5) of the above law [18.575], failure to submit said declarations on time shall give rise to a fine for the infringing authority or official and, at the same time, engage the administrative liability of the chief of personnel or whomever, on the basis of their functions, should have advised them in time of the omission to file or renew a declaration and neglected to do so.*”

[260] – The draft Integrity in Public Office Law mentioned above in connection with the implementation of measure (b) of this same recommendation, which also envisages, among other things, a system of liabilities and penalties associated with the breach of the obligation to declare interests and assets.

[261] For its part, *Chile Transparente* mentioned in its document that “*the draft Integrity in Public Office Law establishes penalties, which are currently nonexistent, for authorities and civil servants who fail to meet their obligation to update their declarations of interests and assets upon leaving office. These new standards would represent a substantial advance in terms of transparency and prevention of corruption in the country and would enable it to be in compliance with the measure suggested by the Committee, for which reason we believe it would be advisable that they be approved and implemented in short order.*”²¹⁶

[262] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation contained in section 1.1 of Chapter IV of this report, which are reflected both in the opinions of the CGR and in the aforementioned draft law. It also notes the need for the country under review to continue to give attention to said measure, bearing in mind that the above bill has not yet become law. (See measure (c) in section 1.1. of Appendix I to this report).

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

[263] The Committee did not offer any recommendations in this section.

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

[264] The recommendation on this section was satisfactorily considered and, therefore, does not require additional attention.

214. These opinions are available at: http://www.oas.org/juridico/spanish/mesicic4_chi.htm

215. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_dic4864.pdf

216. See response of *Chile Transparente* to the questionnaire for the fourth round, pg. 15, *supra* note 3.

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

Recommendation:

Expand and supplement systems for registering income, assets and liabilities, through relevant legal norms, and adopting relevant measures for publishing, when appropriate.

Measure (a):

[265] This measure was satisfactorily considered and, therefore, does not require additional attention.

Measure (b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

(b) Regulate the conditions, procedures and other aspects related to publicizing the declarations of net worth (including income, assets and liabilities), as appropriate.

[266] In its response to the questionnaire,^{217/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following:

[267] – The measures adopted by the Senate^{218/} and the House of Deputies^{219/} to publish on the transparency portals of their respective websites the declarations of assets and interests of their members, in addition to the publication of those declarations filed by more than 200 public authorities, including the President of the Republic and his cabinet, ministers, undersecretaries, mayors, governors, and service chiefs, by presidential order.

[268] – The draft Integrity in Public Office Law cited above, which also provides for disclosure of the declarations of assets and interests of authorities in accordance with Article 8 of the Constitution.

[269] – CGR Resolution No. 3.311 of November 2008,^{220/} which created the Access to Information Unit of the Office of the Comptroller General as the area in charge of operationalizing the disclosure of declarations of assets and interests that, under Articles 59 and 60(D) of Law 18.575, which must be sent to the CGR or the regional comptroller's office, as appropriate, for safekeeping, filing, and consultation. In that connection, the Unit is in charge of coordination with the various offices of the CGR in order to ensure access to information in their keeping.

[270] In that regard, during the on-site visit, CGR representatives supplied additional information referring to the pending status of the draft Integrity in Public Office Law, which, *inter alia*, would require the disclosure of those declarations on the CGR website.

[271] In a similar vein, *Chile Transparente* notes in its document that “*although the declarations of assets of the authorities and public officials required to file them are public, at present there are no*

217. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pg. 18, *supra* note 199.

218. See: http://www.senado.cl/apps Senado/index.php?mo=senadores&ac=listado_declaraciones

219. See: http://www.camara.cl/camara/transparencia_diputado.aspx

220. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_res3311.pdf

mechanisms envisaged under Chilean law that would make the information contained in them easily accessible. The draft Integrity in Public Office Law provides the following formula for their publication on the Internet: ‘Article 6 . The declaration of interests and assets will be published, along with its updates, on the website specified for that purpose by the Office of the Comptroller General, to which access will be available from its own website, which access shall be prompt and ensure the security and integrity of the data entered,’” and that “These new standards would represent a substantial advance in terms of transparency and prevention of corruption in the country and would enable it to be in compliance with the measure suggested by the Committee, for which reason we believe it would be advisable that they be approved and implemented in short order.”^{221/}

[272] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (b) of the recommendation contained in section 2 of Chapter IV of this report, which are reflected in the initiatives of the Senate, House of Deputies, and executive branch as well as in the aforementioned draft law. It also notes the need for the country under review to continue to give attention to said measure, bearing in mind that the above draft law, which would regulate the very conditions, procedures, and other relevant aspects for the disclosure of declarations, has not yet become law. (See measure (a) in section 2 of Appendix I to this report).

Measure (c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

c) Optimize systems for reviewing the contents of declarations of net worth and interests with the objective of detecting and preventing conflicts of interest.

[273] In its response to the questionnaire,^{222/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contributes to progress in the implementation of the measure, the following: the above cited draft Integrity in Public Office Law which provides that the CGR shall monitor the integrity and accuracy of the contents of declarations of interests and assets, for which purpose it shall request information from certain superintendencies and other government services.

[274] In the same vein, *Chile Transparente* notes in its document that “*the new draft Integrity in Public Office Law grants the Office of the Comptroller General express authority to inspect the accuracy and completeness of declarations of interests and assets, including the possibility of requesting information from other public sector organs, such as the Internal Tax Service, the Superintendency of Securities and Insurance, and the Superintendency of Banks and Financial Institutions,*” and it reiterates that “*these new standards would represent a substantial advance in terms of transparency and prevention of corruption in the country and would enable it to be in compliance with the measure suggested by the Committee, for which reason we believe it would be advisable that they be approved and implemented in short order.*”^{223/}

[275] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (c) of the recommendation contained in section 2 of Chapter IV of this report, which are reflected in the aforementioned draft law. It also notes the need for the country

221. See response of *Chile Transparente* to the questionnaire for the fourth round, pg. 15, *supra* note 3.

222. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pg. 19, *supra* note 199.

223. See response of *Chile Transparente* to the questionnaire for the fourth round, pgs. 15 and 16, *supra* note 3.

under review to continue to give attention to said measure, bearing in mind that the above bill has not yet become law. (See measure (b) in section 2 of Appendix I to this report).

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

Recommendation suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:^{224/}

Establish mechanisms that allow for improved institutional coordination of oversight bodies, and supplement the system of external oversight of government administration by institutionalizing an agency or body, or agencies or bodies endowed with the necessary autonomy, as appropriate, so that, in consonance with the powers assigned to other bodies, it could develop functions relating to fulfilling the provisions of Article III, paragraph 11 of the Convention.

[276] In addition to the information provided by the country under review in its response to the questionnaire,^{225/} the Committee notes information and new developments that lead it to conclude that the foregoing recommendation has been satisfactorily considered:

[277] – The creation in 2009 of the Transparency Council (hereinafter CPLT) pursuant to the Transparency Law, as an autonomous public-sector agency with its own legal personality and capital, in charge of promoting transparency in the civil service, monitoring compliance with the standards on transparency and disclosure of information in the possession of state administration organs, ensuring the right of access to public information, and ensuring compliance with the provisions contained in the aforesaid law. Furthermore, in the course of the on-site visit, the opportunity arose to interview the Director General of the Council, who gave a presentation on its powers and functions, as well as its citizen participation policy.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11, OF THE CONVENTION)

4.1. Mechanisms for access to information

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

224. Regarding this recommendation, in the Third Round Report, the committee took note of its satisfactory consideration with respect to the establishment of mechanisms that allow for improved institutional coordination of oversight bodies. See pg. 36 of the “Report on Implementation in the Republic of Chile of the Convention Provisions Selected for Review in the Third Round, and on Follow-Up to the Recommendations Formulated to That Country in Previous Rounds,” available at: http://www.oas.org/juridico/english/mesicic_III_rep_chl.pdf.

225. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 21 to 25, *supra* note 199.

4.2. Mechanisms for consultation

Recommendation:

Supplement the existing consultation mechanisms and, when appropriate, establish procedures that will enable public consultations to be held prior to the drafting of public policies and the final adoption of legal provisions.

Measure suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- a) *Carry out transparent processes to allow consultations with interested sectors with respect to the design of public policies and the development of draft laws, decrees or resolutions in the sphere of the Executive Branch.*

[279] In its response to the questionnaire,^{226/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[280] – The promulgation in February 2011 of the Law on Associations and Citizen Participation in the Conduct of Public Affairs (hereinafter “Law 20.500”),^{227/} which establishes in Article 69 that the State recognizes in individuals the right to participate in its policies, plans, programs, and actions. Also, Article 70 of this law provides that each organ of the public administration, except those mentioned in the second paragraph of Article 21 of Law 18.575, are required to establish specific, formal participation mechanisms for persons and organizations in their area of responsibility and that such mechanisms shall be kept updated and publicized via electronic or other media, and should be put into operation through a resolution of each obligated organ of the state administration. There are four citizen participation mechanisms established and to be implemented in accordance with Law No. 20,500: relevant information, participatory public accounts, citizen consultations, and civil society councils.

[281] – The adoption, pursuant to Law 20.500, of the “Citizen participation policy in the framework of co-responsibility,”^{228/} the purposes and scope of which are “to encourage citizen participation in order to promote a culture of co-responsibility, strengthening opportunities for communication between the government and the citizenry, increasing the transparency, effectiveness, and efficiency of public policies.” This policy sets the following strategic objectives: to strengthen civil society organizations, to promote and guide citizen participation measures toward improving the efficiency and effectiveness of public policies, and to improve and strengthen information and public opinion channels and forums, promoting a quality and timely response on the part of state administration bodies. Those objectives are achieved in three core areas (information and citizen consultation, citizen oversight, and civil society strengthening) that entail a mutual commitment between the state and the citizenry to improving the services provided by the Government.

226. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 16 to 18, *supra* note 199.

227. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_ley20500.pdf

228. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_pol.pdf

[282] – The adoption of Presidential Order No. 002 of 2011 on citizen participation in the conduct of public affairs,^{229/} which aims to encourage coordination in the implementation of Law 20.500 and ensure the effective establishment of specific, formal mechanisms for participation by the organs of the state administration that are obligated to do so. These are complemented with new mechanisms of participation for strengthening between State and the public, such as. citizen councils, public administration schools for social leaders, and the Comprehensive Public Information and Assistance System (SIAC), and other public consultations methodologies such as virtual opinion gateways, or participatory dialogues if physical implementation is preferred, which are carried out in accordance with the Citizen Participation Policy.

[283] – The adoption of Presidential Order No. 005 of 2012,^{230/} the purpose of which is to consolidate the multiple transparency, citizen participation, and partnership initiatives into a one-stop shop for the public, in order to create greater proximity between the State and the citizenry and provide quality services, promote transparency and participation, and have a state that is efficient in terms of adequately using public resources and meeting the needs of its citizens. One core element of the Order is to generate an open information policy in order to have a more transparent state and stimulate citizen participation and partnership. Furthermore, during the on-site visit, representatives of the Undersecretary General of Government said that a web-based mechanism was under development with a view to its installation on the websites of all public-sector institutions where it would function as a single access point enabling citizens to participate in a more timely, efficient, and prompt manner. This tool will be accompanied by an order that standardizes its procedure and in the “citizen consultations” section members of the public will be able to submit their opinions and be consulted on any plan, program, or measure that the institution considers pertinent.

[284] In relation to the foregoing and based on the information contained in the “Annual Public Accountability Report on Citizen Participation,”^{231/} the Committee takes note of the main statistics and descriptions of the processes involved in implementing Law 20.500 in 2012, which indicate, among other aspects, that 116 state institutions have issued their respective rules on citizen participation, 22 of which are ministries and 94 are services; over 100 reported that they had websites with information on updated plans, policies, measures, and programs available for the public in addition to the SIAC as an instrument for receiving and channeling citizen assistance requests; more than 500 citizen consultations made through virtual offices and participatory dialogues or other face-to-face activities, over 380 participatory public accountability reports, and more than 100 civil society councils.

[285] In view of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of measure (a) of the recommendation contained in section 4.1 of Chapter IV of this report.

[286] However, based on information contained in the response of the country under review to the questionnaire and the Annual Public Accountability Report on Citizen Participation mentioned above,^{232/} the Committee notes, more than two years after Law 20.500 was promulgated, there are delays on the part of a number of ministries and services in implementing their respective civil society councils in accordance with Article 74 of said law.

229. Available at: http://www.oas.org/juridico/pdfs/mesicic4_ch1_inst-2011.pdf

230. Available at: http://www.oas.org/juridico/pdfs/mesicic4_ch1_inst-2012.pdf

231. Available at: http://www.oas.org/juridico/pdfs/mesicic4_ch1_cue_part-12.pdf

232. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 32 to 34, *supra* note 199.

[287] In view of the foregoing, and bearing in mind the difficulty identified by the country under review in its response to the questionnaire in terms of the “*how to stimulate participation in these public consultation processes, focus groups, or conversation panels, given the skepticism that exists with respect to the actual influence that public opinion may have in the final decision or if a reasoned response will be given,*”^{233/} the Committee believes that it would be appropriate to reformulate the measure as follows:

[288] Implement civil society councils in all organs of the State administration that are required to do so, in accordance with Article 74 of Law 20.500. (See measure (a) in section 4.2. of Appendix I to this report).

[289] Develop and implement the necessary technological tools to enable consultation mechanisms to operate in a timelier, more efficient, and prompt manner. (See measure (b) in section 4.2. of Appendix I to this report).

[290] Promote, through awareness-raising campaigns or other pertinent means, the usefulness and influence of citizen participation in such consultation mechanisms as are developed in relation to the plans, programs, projects, and actions of the organs of the State administration. (See measure (c) in section 4.2. of Appendix I to this report).

Measure b):

[291] This measure was satisfactorily considered and, therefore, does not require additional attention.

Measure (c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- c) *Continue its efforts with the objective of enacting a Basic Law on Citizen Participation in Public Administration.*

[292] In its response to the questionnaire,^{234/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, notes the following as a step that lead it to conclude said measure has been satisfactorily considered: the enactment in February 2011 of Law 20,500 described above in relation to the implementation of measure (a) of the recommendation in Chapter IV, section 4.1 of this report.

[293] However, based on the information presented by the country under review in its response to the questionnaire, the Committee notes the following:

[294] In first place, according to the provisions of Article 75 of the above law, the norms contained in Title IV on citizen participation in the conduct of public affairs do not apply to the state organs mentioned in Article 21 (2) of the law; in other words, among others, the CGR, the Central Bank, law enforcement and security forces, and regional governments, are excluded from this scope. According to the same article, these organs may establish special rules on citizen participation, that is, “it will be

233. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 51 and 52, *supra* note 199.

234. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 53 to 57, *supra* note 199.

up to them to decide if they wish to issue special rules on citizen participation.”^{235/} Nonetheless, according to information provided by the country under review in its response, the CPLT is currently in the process of developing such rules.

[295] In second place, the pending-adoption-and-publication status of certain related regulations required for the effective implementation of Law 20.500, with respect to, for example, the National Register of Nonprofit Organizations, the National Council, and the Public Interest Organizations Strengthening Fund, based on information supplied in the course of the on-site visit by representatives of the Office of the Undersecretary General of Government.^{236/}

[296] In this regard, *Chile Transparente* stated in its document that “*since coming into force, this law has been unable to surmount obstacles to its implementation, with no clear solution yet in sight. Some of those obstacles are: ... The regulations associated with the Law have not yet been published, despite the time limits for doing so having passed.*”^{237/}

[297] In light of the foregoing, the Committee believes that it would be appropriate to reformulate the measure as follows:

[298] Promote the implementation of special rules on citizen participation in the state organs excluded from the scope of Law 20.500. (See measure (d) in section 4.2. of Appendix I to this report).

[299] Consider adopting the regulations associated with Law 20.500 and other provisions necessary for the full implementation of that law. (See measure (e) in section 4.2. of Appendix I to this report).

4.3. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue to implement mechanisms that encourage civil society and nongovernmental organizations to participate in public administration and continue to move ahead with repealing or modifying provisions that may discourage such participation

[300] With respect to this recommendation, it should be noted that in the Third Round Report^{238/} the Committee took note of the satisfactory consideration of measure (b) thereof that it “*continue to move ahead with repeal or modification of the so-called “desacato laws.”* In that connection, the Committee will reformulate that recommendation as follows:

235. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pg. 56, *supra* note 199.

236. On August 12, 2013, the State under review reported that: “*3 of the 4 sets of regulations associated with Law No. 20.500 are fully operational. Those referred to in the paragraph are two: The Regulations on the National Register of Nonprofit Organizations were adopted recently and published on July 18, 2013; the Regulations for the Registry of Public-interest Organizations, the National Council that manages it, the Regional Councils, and the Functioning of the Fund for Strengthening Public-interest Organizations were published on February 22, 2013. A third set of regulations not referred to in the paragraph is the Model Regulations for Community Councils of Civil Society Organizations, the processing of which concluded in 2011. To date, only the Regulations for the Composition, Regulation, and Functioning of Federations and Confederations of Community Unions of Neighborhood Councils and Functional Community Organizations remain pending, and they are with the Undersecretariat for Regional and Administrative Development, undergoing amendments pursuant to the comments made by the Office of the Comptroller General of the Republic.*”

237. See response of *Chile Transparente* to the questionnaire for the fourth round, pgs. 15 and 16, *supra* note 3.

238. See pg. 45 of the Third Round Report, *supra* note 217.

[301] Strengthen and continue to implement mechanisms that encourage civil society and nongovernmental organizations to participate in public administration. (See recommendation 4.3. of Appendix I to this report).

Measure (a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- a) *Establish mechanisms, in addition to the existing ones, to strengthen the participation of civil society and nongovernmental organizations in public administration, and especially, in efforts to prevent corruption, and promote knowledge of the participation mechanisms established and how to use them.*

[302] In its response to the questionnaire,^{239/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as steps that contribute to progress in the implementation of the measure, the following:

[303] – The progress in terms of modernization for encouraging openness and strengthening transparency, among other aspects, that the Government has been making through the Modernization Unit of the Ministry and General Secretariat of the Presidency through technology projects that will provide citizens with straightforward, quick, and direct access to state, such as “Datos.gob.cl” (www.datos.gob.cl), *Portal de Gobierno Abierto* (Open Government Portal, www.gobiernoabierto.gob.cl), *ChileAtiende* (Chile Serves, www.chileatiende.cl), and *Chile sin Papeleo* (Paperless Chile, www.chilesinpapeleo.cl).

[304] – Chile’s admission in 2013 to the Open Government Partnership (OGP) multilateral initiative after meeting the eligibility requirements in terms of fiscal transparency, access to public information, transparency in declarations of assets and interests, and openness to citizen participation in policy shaping.

[305] – The launch in September 2012 of the *Portal Contraloría y Ciudadano* [Comptroller and Citizen Portal] described in Chapter II, Section 2.1 of this report, the objective of which is to strengthen individual participation in the preservation of integrity and public property by creating an effective channel of communication that involves members of the public in the monitoring efforts of the CGR, to which they can submit oversight on-line suggestions and complaints using forms specifically designed for those purposes.

[306] – The promotion, training, and awareness-raising measures in terms of transparency and access to information that the CPLT has been implementing since 2009, in which particular attention has been given to encouraging civil society to participate in the conduct of public affairs and to social empowerment through the use of the Transparency Law as a means of societal oversight and participation. Notable among these initiatives was the launch of the *EducaTransparencia* education portal as an integral electronic system that includes an organized set of physical and technological components for developing citizens’ skills in their public role through various educational resources,^{240/} such as animated capsules, information videos, and e-learning courses, in addition to printed educational handbooks.

239. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 57 to 63, *supra* note 199.

240. See: <http://www.educatransparencia.cl/portal/>

[307] Furthermore, in the course of the on-site visit, representatives of the Undersecretary General of Government provided additional information on two citizen participation mechanisms that are not mandatory for public institutions but supplement the four mechanisms institutionalized in Law 20.500 (access to relevant information, participatory public accounts, citizen consultations, and civil society councils) that are currently being implemented by the Ministry and General Secretariat of the Presidency. In that regard, they mentioned that the following were under development:

[308] The so-called “*ideas ciudadanas*” [citizens’ ideas] mechanism, which will comprise a forum where citizens can submit, discuss, and vote on their ideas, generating a conversation by which to improve the performance of the public institution in a transparent, collaborative, and participatory way; and the “*yo propongo*” [I propose] mechanism which will be an electronic platform for submitting proposals on matters of public interest.

[309] They also said that work is underway on a project between the UNDP and the Ministry and Secretary General of Government entitled “Strengthening Participatory Public Management and Social Cohesion,”^{241/} which aims to strengthen mechanisms for citizen participation in the conduct of public affairs by raising awareness of new validated working methodologies and successful experiences, and making available a measurement instrument that provides synthesized information on objective and subjective indicators on participatory public management and social cohesion, combining citizens’ own assessment of it in terms of their aspirations, interests, and needs. The inputs and findings of the UNDP study provided the baseline for the design, development, and implementation of the strategies that the Government will pursue in advisory services and coaching offered to public sector institutions for fulfilling their obligations under Law 20.500. In 2013 the expectation is to develop methodological guidelines for designing participatory public management projects.^{242/}

[310] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation contained in section 4.3 of Chapter IV of this report, which are reflected, in particular, in the launch of the Comptroller and Citizen Portal and the promotion, training, and awareness-raising measures on transparency and access to information being implemented by the CPLT, which are concerned more with the recommendation of establishing additional participation mechanisms, especially on efforts to prevent corruption. The Committee also notes the need for the country under review to continue to give attention to this measure. (See sole measure in section 4.3. of Appendix I to this report).

Measure b):

[311] This measure was satisfactorily considered and, therefore, does not require additional attention.

241. See: http://www.oas.org/juridico/pdfs/mesicic4_ch1_pnud.pdf

242. On August 12, 2013, the State under review reported that: “*said guidelines have been developed. In June, the beta version was sent to all persons responsible for citizen participation in order to hear their comments. Following this process, the final version of the guidelines was produced, which will be socialized through an e-learning course developed by UNDP consultants.*”

4.4 Participation mechanisms for follow-up of public administration

Recommendation:

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

Measure (a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- a) *Promote methods, when appropriate, so that public officials can allow for, facilitate or assist civil society and nongovernmental organizations in developing activities for the follow-up of their public activities.*

[312] In its response to the questionnaire,^{243/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes the following as steps that contribute to progress in its implementation:

[313] – The initiatives implemented by the CGR as regards the *Semáforo Municipal* [Municipal Traffic Light] and *Agendas Públicas* [Public Agendas], described in Chapter III “Best Practices” in this report.

[314] – The measures adopted by the CPLT, such as Instruction No. 2 on the appointment of liaisons with this Council by authorities,^{244/} chiefs, and managers of organs and services of the state administration, in order to act as communication conduits to speed up the flow of information among services, the public, and the CPLT for the proper fulfillment and implementation of the Transparency Law; and the launch of the *EducaTransparencia* educational portal described above in connection with the progress in implementing measure (a) of the recommendation contained in Chapter IV, Section 4.3 of this report.

[315] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation contained in section 4.4 of Chapter IV of this report, which are reflected in the initiatives being implemented by the CGR as well as by the CPLT. The Committee also notes the need for the country under review to continue to give attention to this measure, bearing in mind that those initiatives address very specific areas and the recommendation is aimed at mechanisms designed to prevent corruption in accordance with Article III (11) of the Convention. (See measure (a) in section 4.4. of Appendix I to this report).

Measure (b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- b) *Design and put into operation programs to publicize participation mechanisms in the follow-up of public administration and, when appropriate, provide training and the necessary tools so that civil society and nongovernmental organizations can use such mechanisms.*

243. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 64 to 67, *supra* note 199.

244. Available at: http://www.oas.org/juridico/pdfs/mesicic4_chl_inst.pdf

[316] In its response to the questionnaire,^{245/} the country under review presents information and new developments with respect to the foregoing measure. In this regard, the Committee notes, as a step that contributes to progress in the implementation of the measure, the following: the awareness raising programs and training workshops being implemented by the CPLT on the right of access to public information menu provided for in the Transparency Law.

[317] Furthermore, in the course of the on-site visit, representatives of the Undersecretary General of Government said that the Ministry and General Secretariat of Government, through its Social Organizations Division, is implementing, as part of its programmatic lines of action, training projects on Law 20.500 and participation opportunities for social leaders throughout the country, which include:

[318] – The *Infobus*, a kind of mobile office that carries government information to all the country's regions, enabling citizens to be informed about government benefits, plans, and programs.

[319] – *Escuelas de Gestión Pública* [Public Management Schools] to contribute to the training of social leaders on government policies in an informative and participatory way and, thereby, strengthen their role in the community through workshops on education, housing, health, transport, and public security, among other policies of public interest.

[320] – Training programs for civil servants and civil society organizations on thematic content connected with Laws 20.500 and 19.418 to do with Neighborhood Councils and other social organizations, access to public information, project design, leadership skills for social organizations, dispute settlement, and the role of leaders of civil society organizations.

[321] It was also mentioned that the Social Organizations Division periodically carries out technical and methodological assistance projects for public-sector institutions in order to assist them in implementing and appropriately disseminating their citizen participation mechanisms.

[322] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (b) of the recommendation contained in section 4.4 of Chapter IV of this report, which are reflected in the initiatives being implemented by the CPLT as well as by the Ministry and General Secretariat of Government through its Social Organizations Division. The Committee also notes the need for the country under review to continue to give attention to this measure, bearing in mind that those initiatives address very specific areas and the recommendation is aimed at mechanisms designed to prevent corruption in accordance with Article III (11) of the Convention. (See measure (b) in section 4.4. of Appendix I to this report).

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

Recommendation 5.1:

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

245. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 68 to 70, *supra* note 199.

Recommendation 5.2 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

5.2. *Define those specific areas in which the Republic of Chile may need or could usefully receive mutual technical cooperation for preventing, detecting, investigating and punishing acts of corruption, and based on that analysis, design and implement a comprehensive strategy that would allow the country to seek out other States party and not party to the Convention and institutions or bodies involved in international cooperation in order to obtain the technical cooperation it has determined it needs.*

[324] In its response to the questionnaire,^{246/} the country under review presents information and new developments with respect to the foregoing recommendation. In this regard, notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[325] – Participation by the country under review, through representatives of UNAC, in various international forums and seminars, such as the course on “*La Inteligencia en Investigaciones Policiales*” [Intelligence in Police Investigations] held in 2011 in Panama; workshops on the fight against corruption and recent trends in the investigation of corrupt practices held in the same year in Thailand and Honduras and attended by persistent government prosecutors from different parts of the country and UNAC; international seminar on asset recovery held in Chile in 2012, in the framework of the Stolen Asset Recovery (StAR) Initiative, among others.

[326] – The enactment in the context of Chile's admission to the OECD of various laws on bribery of domestic and foreign public officials, liability of legal persons, and access to banking information by the tax authority, in addition to a proposed law amending Law 19.913 that would allow the confiscation and seizure of the proceeds of crime based on requests originating from international cooperation.

[327] Based on the foregoing, as regards measures for the effective implementation of the above rules and with respect to cooperation needs, in its response, the country under review mentioned the “*need to enhance the capacity of Chilean authorities in the area of the recovery of assets that originate or proceed from corruption, in terms of investigations at the domestic level and in response to a request for cooperation on mutual legal assistance from other countries or jurisdictions.*”^{247/}

[328] In that context, in 2012, in the framework of the National Coordination Effort to combat and prevent ML/FT, the UAF, in conjunction with the IMF and IDB, began work on the design of the first national strategy to prevent and combat money laundering and terrorism financing, in which 20 public agencies are taking part, with the aim of “*identifying the risks and challenges entailed in combating and preventing both crimes and identifying strengths, opportunities, weaknesses, and threats that the country faces in combating money laundering and, therefore, its predicate offenses, such as the crimes of corruption and bribery.*”^{248/}

[329] In view of the foregoing, the Committee takes note of the satisfactory consideration by the country under review of recommendation 5.2 in Chapter IV, Section 5 of this report, which, by its nature, requires a continuation of efforts. Accordingly, the Committee hopes that the country under

246. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 71 to 77, *supra* note 199.

247. *Ibid.*, pg. 74, *supra* note 199.

248. *Ibid.*, pg. 77, *supra* note 199.

review will report on steps taken to that end in the annual progress reports as set out in Article 32 of the Committee's Rules of Procedure.

Recommendation 5.3 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[330] In its response to the questionnaire,^{249/} the country under review presents information and new developments with respect to the foregoing recommendation. In this regard, notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[331] – The participation by the country under review, through the International Cooperation Agency of Chile (AGCI), in the Triangular Cooperation Program to benefit of other countries in Latin America and the Caribbean, signed by Chile and the United States. Thus, for example, representatives of the MP, the Investigations Police, and the UAF imparted a course on “Corruption, Legal Framework, Mechanisms for Detection, Investigation, Prosecution, and Trial: The Chilean Experience” at the facility of the International Law Enforcement Academy (ILEA) in El Salvador. The aim of the course was to hold a discussion on the situation of corruption based on the Chilean experience and following the implementation of criminal procedure reforms on legal frameworks and mechanisms in place for the investigation, criminal prosecution, and trial of corruption in Latin America and the Caribbean. It is stated that a new edition of this workshop will be held in late August 2013 in San Salvador, El Salvador.

[332] The Committee takes note of the satisfactory consideration by the country under review of recommendation 5.3 in Chapter IV, Section 5 of this report, which, by its nature, requires a continuation of efforts. Accordingly, the Committee hopes that the country under review will report on steps taken to that end in the annual progress reports as set out in Article 32 of the Committee's Rules of Procedure.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

Recommendation suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

Inform the General Secretariat of the OAS at the proper time of any change in the designation of the central authority or authorities for purposes of the international assistance and cooperation provided for in the Convention.

[333] The Committee takes note of the satisfactory consideration by the country under review of the foregoing recommendation, given that by Note No. 274 of November 26, 2012, the Permanent Mission of Chile to the OAS informed the Secretary General, and, through him, the Department of Legal Cooperation of the Secretariat for Legal Affairs that the Ministry of Foreign Affairs of Chile has been designated as the central authority for the purposes envisaged in Article XVIII (1) of the Convention.

249. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 77 and 78, *supra* note 199.

7. GENERAL RECOMMENDATIONS

Recommendation 7.1:

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

Recommendation 7.2 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[335] In its response the country under review does not provide information further to that reviewed by the Committee in the reports from the Second and Third Rounds with respect to the foregoing recommendation. Accordingly, the Committee reiterates the need for the country under review to give additional attention thereto. (See recommendation in section 7 of Appendix I to this report).

Recommendation 7.3 suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

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

[336] In its response to the questionnaire,^{250/} the country under review presents information and new developments with respect to the foregoing recommendation. In this regard, notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[337] – The CAIGG has developed and is refining a system that disaggregates the recommendations made in the First, Second, and Third Rounds in order to link each recommendation and suggestion to the organs of the State Administration responsible for the issue in question, with the aim of advancing with their implementation. The Auditor General of the Government, during the on-site visit, presented the system.

[338] – Furthermore, representatives of state organs have been holding regular meetings since 2011 to discuss the recommendations and solve them to the extent that the country's domestic laws allow. Those organs include the CGR, the MP, the Ministries of the Presidency and Finance, the CPLT, the UAF, the Superintendency of Securities and Insurance, the Internal Tax Service, the National Economic Prosecutor's Office, and the Tribunal for Protection of Free Competition, among others. The meetings are coordinated and held at the Ministry of Foreign Affairs.

250. See response of the country under review on Progress in Implementation of the Recommendations Formulated in the Report from the First Round of Review, pgs. 83 and 84, *supra* note 199.

[339] In that regard, the Committee takes note of the satisfactory consideration by the country under review of recommendation 7.3 contained in Chapter IV, Section 7 of this report.

ANNEX I

PENDING AND RE-FRAMED RECOMMENDATIONS FROM THE FIRST ROUND

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

1.1. Standards of conduct to prevent conflicts of interests and mechanisms to enforce them

Recommendation:

Strengthen the provisions with respect to the standards of conduct intended to prevent conflicts of interest during and after leaving public office, and the systems for reviewing the content of sworn statements on disqualifications and statements of interests.

Suggested measures:

- a) Supplement the restrictions provided in the law for those who leave public service, including, when appropriate, other situations that could constitute conflicts of interest following the departure of the public official, applicable for a reasonable period of time after said departure.
- b) Strengthen systems that make it possible to ensure that agency personnel and internal control units carry out on a timely basis and when appropriate the verification or review of the information contained in the sworn statements on disqualifications and statements of interests.
- c) Ensure the applicability of punishments of public servants that infringe upon laws on conflicts of interests.

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

The Committee did not offer any recommendations in this section.

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

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

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

Recommendation:

Expand and supplement systems for registering income, assets and liabilities, through relevant legal norms, and adopting relevant measures for publishing, when appropriate.

Suggested measures:

- a) Regulate the conditions, procedures and other aspects related to publicizing the declarations of net worth (including income, assets and liabilities), as appropriate.
- b) Optimize systems for reviewing the contents of declarations of net worth and interests with the objective of detecting and preventing conflicts of interest.

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

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

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11, OF THE CONVENTION)

4.1. Mechanisms for access to information

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

4.2. Mechanisms for consultation

Recommendation:

Supplement the existing consultation mechanisms and, when appropriate, establish procedures that will enable public consultations to be held prior to the drafting of public policies and the final adoption of legal provisions.

Suggested measures:

- a) Implement civil society councils in all organs of the State administration that are required to do so, in accordance with Article 74 of Law 20.500.
- b) Develop and implement the necessary technological tools to enable consultation mechanisms to operate in a timelier, more efficient, and expedite manner.
- c) Promote, through awareness-raising campaigns or other pertinent means, the usefulness and influence of citizen participation in such consultation mechanisms as are developed in relation to the plans, programs, projects, and actions of the organs of the State administration.
- d) Promote the implementation of special rules on citizen participation in the state organs excluded from the scope of Law 20.500.
- e) Consider adopting the regulations associated with Law 20.500 and other provisions necessary for the full implementation of that law.

4.3. Mechanisms to encourage participation in public administration

Recommendation:

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

Suggested measure:

- Establish mechanisms, in addition to the existing ones, to strengthen the participation of civil society and nongovernmental organizations in public administration, and especially, in efforts to prevent corruption, and promote knowledge of the participation mechanisms established and how to use them.

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

Recommendation:

Strengthen and continue to implement mechanisms to encourage civil society and nongovernmental organizations to participate in the monitoring of public affairs.

Suggested measures:

- a) Promote methods, when appropriate, so that public officials can allow for, facilitate or assist civil society and nongovernmental organizations in developing activities for the follow-up of their public activities.
- b) Design and implement programs for disseminating the mechanisms for participating in the monitoring of the public administration and, when appropriate, training and providing civil society and NGOs with the tools needed to use those.

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

The recommendations on this section were satisfactorily considered and, therefore, do not require additional attention.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

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

7. GENERAL RECOMMENDATIONS

Recommendation

- Select, develop, and report to the Technical Secretariat of the Committee, procedures and indicators, when appropriate, that make it possible to monitor the recommendations established in this report. With this in mind, consider taking into account the list of more general indicators applicable within the Inter-American system that were available for the selection indicated by the country under review and posted on the OAS website by the Technical Secretariat of the Committee; as well, consider information derived from the review of the mechanisms developed in accordance with recommendation 7.3 in the report from the First Round.

ANNEX II

**AGENDA FOR THE ON-SITE VISIT TO THE
REPUBLIC OF CHILE**

<u>Sunday, April 7, 2013,</u>	
10:00 – 11:00 a.m. <i>Hotel Galerías</i>	Coordination meeting between the representatives of the member states of the Subgroup and the Technical Secretariat.
11:00 a.m. – 12:00 pm <i>Hotel Galerías</i>	Coordination meeting of representatives of the country under review, the members states of the subgroup, and the Technical Secretariat.
<u>Monday, April 8, 2013,</u>	
8:30 a.m. – 12:30 p.m. <i>Ministry of Foreign Affairs</i>	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics, or researchers ^{251/}
8:30 – 10:30 a.m.	<p><u>First meeting:</u></p> <p>Topics:</p> <ul style="list-style-type: none">• Follow-up on the recommendations from the First Round• Citizen participation in the framework of Law 20.500 <p><u>Participants:</u></p> <p>- <i>Chile Transparente:</i> Francisco Sánchez Lay, Director of Legal Affairs</p> <p>- <i>Fundación AVINA:</i> Francisca Rivero, In Charge of National Strategy Alexander Repenning, Cooperant.</p> <p>- <i>Fundación Pro Acceso:</i> Federico Allendes, Chair Moisés Sánchez, Executive Director</p> <p>- <i>Scholar and expert on integrity and good governance:</i> Nicolás Cobo, Deputy Director of the Center for International Studies of the Catholic University of Chile</p>

251. The civil society organization *Chile Transparente* (Chilean Chapter of Transparency International) participated in these meetings pursuant to the provisions of item 26 of the Methodology for Conducting On-Site Visits, inasmuch as it presented a document related to the questionnaire for the fourth review round, as provided in Article 34 (b) of the Committee's Rules of Procedure. It is also suggested that other organizations and individuals be invited to attend, as envisaged in item 27 of the above Methodology, which permits the invitation to these meetings of civil society organizations and/or, *inter alia*, private sector organizations, professional associations, academics, or researchers.

<p>10:30 a.m. – 12:30 pm</p>	<p><u>Second meeting:</u> Topic: Cooperation between the private sector and oversight bodies in the fight against corruption</p> <hr/> <p><u>Participants:</u> - College of Accountants of Chile Juan Lazo, Chair of the Internal Audit Committee Gladys Soto Villarroel, Vice Chair of the Internal Audit Committee - Santiago Chamber of Commerce (CCS) Cristián García-Huidobro, Secretary General Thamar Jaramillo, Manager of Public Affairs Andreas Wiechert, Manager International Relations - Fundación Generación Empresarial Paula Valenzuela, General Manager Luis Munita, Sociologist of the Fundación Ana Victoria Ochagavía, Manager of Public Affairs</p>
<p>12:30 – 2:00 p.m.</p>	<p>Lunch</p>
<p>2:00 – 6:00 p.m. <i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Public Prosecution Service</p>
<p>2:00 – 4:00 p.m.</p>	<p>Panel 1:</p> <ul style="list-style-type: none"> • Short introduction on its purpose, functions, and structure • Framework of competencies and mechanisms for the solution of conflicts therein • Training activities • Implementation of technological systems <hr/> <p><u>Participants:</u> Marta Herrera Seguel, Director of the Anticorruption Unit of the National Prosecution Office Hernán Fernández Aracena, Deputy Director of the Anticorruption Unit of the National Prosecution Office Marcela Díaz León, Chief of the Training Unit, Human Resources Division of the National Prosecution Office Carlos Martínez Jara, Chief of Operations and Systems, Information</p>

	<p>Technology Division of the National Prosecution Office</p> <p>Luz María Fernández Saldías, Legal Counsel of the Victim and Witness Assistance Division of the National Prosecution Office</p> <p>Felipe Abbott Matus, Legal Counsel of the Training Unit, Human Resources Division of the National Prosecution Office</p> <p>Erika Flores Arévalo, Legal Counsel of the Studies Division of the National Prosecution Office</p> <p>Yelica Lusic Nadal, Legal Counsel to the Anticorruption Unit of the National Prosecution Office</p>
<p>4:00 – 6:00 p.m.</p>	<p>Panel 2:</p> <ul style="list-style-type: none"> • Internal control mechanisms • Specialized Anticorruption Unit • Results in relation to the fulfillment of its responsibilities. • Difficulties with fulfilling obligations and technical cooperation needs <hr/> <p><u>Participants:</u></p> <p>Marta Herrera Seguel, Director of the Anticorruption Unit of the National Prosecution Office</p> <p>Hernán Fernández Aracena, Deputy Director of the Anticorruption Unit of the National Prosecution Office</p> <p>Marcela Díaz León, Chief of the Training Unit, Human Resources Division of the National Prosecution Office</p> <p>Carlos Martínez Jara, Chief of Operations and Systems, Information Technology Division of the National Prosecution Office</p> <p>Luz María Fernández Saldías, Legal Counsel of the Victim and Witness Assistance Division of the National Prosecution Office</p> <p>Felipe Abbott Matus, Legal Counsel of the Training Unit, Human Resources Division of the National Prosecution Office</p> <p>Erika Flores Arévalo, Legal Counsel of the Studies Division of the National Prosecution Office</p> <p>Yelica Lusic Nadal, Legal Counsel of the Anticorruption Unit of the National Prosecution Office</p>
<p>6:00 – 6:30 p.m.</p> <p><i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Informal Meeting^{252/} Informal meeting between the representatives of the member states of the Subgroup and the Technical Secretariat.</p>

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

Tuesday, April 9, 2013

<p>8:30 a.m. – 12:30 p.m. <i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Office Of The Comptroller General</p>
<p>8:30 – 10:30 a.m.</p>	<p>Panel 3:</p> <ul style="list-style-type: none"> • Short introduction on its purpose, functions, and structure • Scope of functions, exceptions to same, and mechanisms for settling conflicts of jurisdiction • System of appeals for challenging its decisions • Highest authorities and legal and administrative human resources regime • Internal control and accountability mechanisms <hr/> <p><u>Participants:</u> Ramiro Mendoza, Comptroller General Patricia Arriagada, Deputy Comptroller María Isabel Carril Caballero, Chief of the Administrative Audit Division Priscila Marina Jara Fuentes, Chief of the Municipalities Division Nancy Elizabeth Barra Gallardo, Deputy Chief of the Municipalities Division Milen Oliva Chiang, Chief of the Access to Information Unit Mauricio Muñoz Gutiérrez, Legal Counsel, Deputy Comptroller’s Office Verónica Meneses Gutiérrez, Legal Counsel, Comptroller’s Office Marcelo Araya Rojas, Lawyer, Court of Auditors. Pablo Soto, Coordination and Support, Accounts Analysis Division Constanza Tobar Castro, Prosecuting Attorney, CGR.</p>
<p>10:30 a.m. – 12:30 p.m.</p>	<p>Panel 4:</p> <ul style="list-style-type: none"> • Results in relation to the fulfillment of its responsibilities. • Difficulties with fulfilling obligations and technical cooperation needs • Information on best practices in relation to its functions. • Follow-up on the recommendations from the First Round <hr/> <p><u>Participants:</u> Patricia Arriagada, Deputy Comptroller</p>

	<p>María Isabel Carril Caballero, Chief of the Administrative Audit Division</p> <p>Priscila Marina Jara Fuentes, Chief of the Municipalities Division</p> <p>Nancy Elizabeth Barra Gallardo, Deputy Chief of the Municipalities Division</p> <p>Milen Oliva Chiang, Chief of the Access to Information Unit</p> <p>Mauricio Muñoz Gutiérrez, Legal Counsel, Deputy Comptroller’s Office</p> <p>Verónica Meneses Gutiérrez, Legal Counsel, Comptroller’s Office</p> <p>Marcelo Araya Rojas, Lawyer, Court of Auditors.</p> <p>Pablo Soto, Coordination and Support, Accounts Analysis Division</p> <p>Constanza Tobar Castro, Prosecuting Attorney, CGR.</p>
12:30 – 2:00 p.m.	Lunch
2:00 – 6:00 p.m. <i>Offices of the Ministry of Foreign Affairs</i>	Judicial Branch
2:00 – 4:00 p.m.	<p>Panel 5:</p> <ul style="list-style-type: none"> • Short introduction on its purpose, functions, and structure • Legal and administrative human resources regime. • “Agreed orders” • Institutional strengthening • Internal control and accountability mechanisms <p><u>Participants:</u></p> <p>Juan Manuel Escandón, Government Prosecutor, Santiago Court of Appeals.</p> <p>Beatriz Pedrals García de Cortazar, Government Prosecutor, Santiago Court of Appeals.</p> <p>Antonio Larraín Fernández, Director, Administrative Corporation of the Judicial Branch</p> <p>León Paúl Castro, Deputy Director, Administrative Corporation of the Judicial Branch</p> <p>Ricardo Guzmán Sanza, Internal Comptroller, Administrative Corporation of the Judicial Branch</p> <p>Gustavo Poblete Morales, Chief of the Department of Finance and Budget, Administrative Corporation of the Judicial Branch</p> <p>Andreina Olmo Marchetti, Chief of the Department of Human Resources, Administrative Corporation of the Judicial Branch</p>

	<p>Rodrigo Herrera Marchant, Chief of the Department Institutional Development, Administrative Corporation of the Judicial Branch</p> <p>Paulette Agustera, Superior Council Minutes, Administrative Corporation of the Judicial Branch</p>
4:00 – 6:00 p.m.	<p>Panel 6:</p> <ul style="list-style-type: none"> • Necessary budget resources • Coordination mechanisms • Results in relation to the fulfillment of its responsibilities. • Difficulties with fulfilling obligations and technical cooperation needs <p><u>Participants:</u></p> <p>Juan Manuel Escandón, Government Prosecutor, Santiago Court of Appeals.</p> <p>Beatriz Pedrals García de Cortazar, Government Prosecutor, Santiago Court of Appeals.</p> <p>Antonio Larraín Fernández, Director, Administrative Corporation of the Judicial Branch</p> <p>León Paúl Castro, Deputy Director, Administrative Corporation of the Judicial Branch</p> <p>Ricardo Guzmán Sanza, Internal Comptroller, Administrative Corporation of the Judicial Branch</p> <p>Gustavo Poblete Morales, Chief of the Department of Finance and Budget, Administrative Corporation of the Judicial Branch</p> <p>Andreina Olmo Marchetti, Chief of the Department of Human Resources, Administrative Corporation of the Judicial Branch</p> <p>Rodrigo Herrera Marchant, Chief of the Department Institutional Development, Administrative Corporation of the Judicial Branch</p> <p>Paulette Agustera, Superior Council Minutes, Administrative Corporation of the Judicial Branch</p>
6:00 – 6:30 p.m. <i>Offices of the Ministry of Foreign Affairs</i>	Informal meeting between the representatives of the member states of the Subgroup and the Technical Secretariat.
Wednesday, April 10, 2013	
8:30 a.m. – 12:30 p.m. <i>Offices of the Ministry of Foreign Affairs</i>	Financial Analysis Unit
8:30 – 10:30 a.m.	Panel 7:

	<ul style="list-style-type: none"> • Short introduction on its purpose, functions, and structure • Decision making • Legal and administrative human resources regime. • Training activities • Institutional strengthening
	<p><u>Participants:</u> Javier Cruz Tamburrino, Director Tomás Koch Shultz, In Charge of International Affairs Adrián Fuentes Campos, Attorney, Legal Division</p>
<p>10:30 a.m. – 12:30 p.m.</p>	<p>Panel 8:</p> <ul style="list-style-type: none"> • Dissemination of its objectives and functions • Internal control and accountability mechanisms • Results in relation to the fulfillment of its responsibilities. • Difficulties with fulfilling obligations and technical cooperation needs
	<p><u>Participants:</u> Javier Cruz Tamburrino, Director Tomás Koch Shultz, In Charge of International Affairs Adrián Fuentes Campos, Attorney, Legal Division</p>
<p>12:30 – 2:00 p.m.</p>	<p>Lunch</p>
<p>2:00 – 6:00 p.m. <i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Follow-up on the recommendations from the first round</p>
	<p>Panel 9:</p> <ul style="list-style-type: none"> • Standards of conduct to prevent conflicts of interest • Systems for registering income, assets, and liabilities: • Citizen participation mechanisms • Mutual assistance and technical cooperation • General Recommendations
	<p><u>Participants:</u> Transparency Council: Raúl Ferrada, Director General</p>

	<p>Ministry and General Secretariat of the Presidency: Gonzalo Guerrero, Chief of Staff of the Undersecretary of the Ministry and General Secretariat of the Presidency Alberto Precht, Chair of the Committee on Citizen Defense and Administrative Transparency Raimundo Varela, Lawyer, Committee on Citizen Defense and Administrative Transparency</p> <p>Ministry and General Secretariat of Government and Its Social Organizations Division Abraham Abugattas, Chief of Staff of the Deputy Secretary General of Government Aliro Caimapo Oyarzo, National Director of the Social Organizations Division</p> <p>Government General Internal Audit Council Jorge Vio Niemeyer, Government Auditor General Felipe Aliaga, Legal Counsel</p>
<p>6:00 – 6:30 p.m. <i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Informal meeting between the representatives of the member states of the Subgroup and the Technical Secretariat.</p>
<p>6:30 – 7:00 p.m. <i>Offices of the Ministry of Foreign Affairs</i></p>	<p>Final Meeting^{253/} Informal meeting between representatives of the country under review, the member states of the subgroup, and the Technical Secretariat.</p>

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

**CONTACT AUTHORITY FROM THE COUNTRY UNDER REVIEW FOR
COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE
MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP AND THE
TECHNICAL SECRETARIAT OF THE MESICIC**

COUNTRY UNDER REVIEW:

CHILE

Jorge Vio Niemeyer

Lead Expert to the Committee of Experts of the MESICIC
Government Auditor General, Government General Internal Audit Council

Felipe Aliaga

Alternate Expert to the Committee of Experts of the MESICIC
Legal Counsel, Government General Internal Audit Council

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP

EL SALVADOR

Álvaro Magaña

Alternate Expert to the Committee of Experts of the MESICIC
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