

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

**QUESTIONNAIRE ON PROVISIONS SELECTED BY THE COMMITTEE OF EXPERTS
FOR ANALYSIS WITHIN THE FRAMEWORK OF THE FIRST ROUND¹**

May 24, 2002

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

1. The structure of the State

As with any constitutional state, the Costa Rican State has divided its functions. According to Article 9 of the Constitution, there is a separate branch to exercise each of the three basic functions into which the exercise of state power is divided: the legislative branch exercises the legislative function, the executive branch exercises the government function, and the judicial branch exercises the judicial function.

1.1. The legislative function

The body that exercises the legislative function is the Legislative Assembly which is, in light of the democratic nature of the Costa Rican State, a representative Assembly elected by popular vote, pursuant to Article 105 of the Constitution

Article 121 (1) of the Constitution defines the powers of the Legislative Assembly: these are to enact, amend, repeal and give an authentic interpretation to the laws. In addition to the legislative function, however, the Legislative Assembly also exercises political control. In this respect, sections 3, 23 and 24 of Article 121 establish the powers of the Legislative Assembly to appoint the Justices of the Supreme Court, to question and censure cabinet ministers, and to appoint special commissions of investigation, while Article 139 (4) establishes the duty of the President of the Republic to present a report to the Assembly on May 1. .

There is also the budget function, which is that of authorizing state expenditure. This function is distinct from the legislative, and may be seen as a variant of political control over the government, the organ that generally prepares the draft budget, since the Assembly must approve it. See Articles 121 (11), 178 and 179 of the Constitution.

1.2. The executive function

In Costa Rica, the government or executive function is exercised by the executive branch, understood in its broad sense as including the President and the appropriate cabinet minister (Article 140), or in its strict sense as the President alone (Article 139 of the Constitution).

The executive branch, in its broad sense, exercises the administrative function, the political direction function, and the regulatory power, all of which are governed by Article 140 of the

¹ This questionnaire was adopted by the Committee of Experts of the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption, in its second meeting, held May 20 to 24, 2002, at OAS Headquarters, Washington, D.C.

Constitution. The only political control function of the President in the Costa Rican Constitution is the Presidential veto, which is exercised in the process of creating laws.

1.3. The judicial function

The judicial function is exercised by the judicial bodies. The essential characteristic of the judiciary is its absolute independence, and that of each judge, from the other branches of state, in exercise of the judicial function.

In terms of the juridical regime, judicial acts of the judicial bodies are subject only to judicial review, in contrast to administrative acts, which may be reviewed by the courts, or legislative acts, which may be reviewed by the constitutional court.

The powers of the judiciary are regulated by Articles 152 to 167 of the Constitution. Article 153 gives the judiciary the power to hear and decide all cases established by law. Articles 154 and 155 establish the principle of independence of the courts, and of the judges, vis-à-vis the other branches and organs of the State.

2. The form of government and the functioning of the system

Costa Rica as a presidential government, in which the President of the Republic is elected by popular vote, is not accountable politically to the Legislative Assembly, and has no power to dissolve the Assembly. The position of minister is incompatible with that of Deputy, and the President appoints the ministers of government at his discretion.

The presidential character of the form of government is modified by the fact that the Assembly may question and censure ministers of government (Article 121.23), although this does not invoke their political responsibility, and also by the fact that the Assembly may create commissions of investigation to oversee the work of the executive (121.24).

Consistent with the tripartite division of state functions, the Legislative Assembly enacts laws, the executive administers them and sees to the general interest and public order, and the judicial branch enforces them.

Because the Costa Rican state is a constitutional state, as the supreme expression of the rule of law, judicial control over the legality and constitutionality of all government action is established in Articles 10, 48 and 49 of the Constitution.

Article 10 creates the Constitutional Chamber as a Specialized Chamber of the Supreme Court of Justice to oversee the constitutionality of all normative acts of government, and Article 48 gives that Chamber the power to protect the fundamental rights of individuals through the recourse of habeas corpus and appeal for constitutional protection (*amparo*).

Judicial control over the ordinary legality of the administration's activity is established in Article 49, which gives the judicial branch authority to hear administrative-contentious cases.

As a control that relates both to legality and management, Article 183 of the Constitution creates the Office of the Comptroller General as an auxiliary institution of the Legislative Assembly to maintain surveillance of the public finances.

II. CONTENT OF THE QUESTIONNAIRE

CHAPTER ONE

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

1. General standards of conduct and mechanisms

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

It is important to note, first, that the Constitution provides for regulating the exercise of the public function, by means of an amendment that was introduced by law 8003 of June 8, 2000.

That reform consisted in the addition of a paragraph to Article 11, providing that the public administration is subject to a procedure of evaluation of results and rendering of accounts, and that public servants have personal responsibility for fulfilling their duties (Annex 1).

The Civil Service Statute, which regulates the relationship of service between the State and the public servants covered by that statute, provides (Article 20) that any candidate for public service must have the moral and physical attributes appropriate to the position, and that this must be demonstrated by means of information on the individual's life history and background, including records in the police files, the national archives, the Office of Investigation and the Department of Health (Annex 2).

Costa Rican law also includes Decree 2-P of May 12, 1998, which establishes ethical standards that are binding on all public servants, including positions of trust. That decree establishes a series of prohibitions in order to ensure the correct, honorable and adequate performance of public functions (Annex 3).

In the same vein, Order (*Acuerdo*) No. 3 of May 8, 2002 regulates other aspects of public service ethics. It applies to the President of the Republic, the Vice President, Ministers, Vice Ministers, Executive Presidents, Chief Clerks, the General Secretary of the Council of Government, and all persons holding a position of trust (Annex 4).

As well, the Code of Judicial Ethics approved by the Supreme Court in session 16/19 of April 12, 1999 (Article III), establishes the basic concepts that must govern the administration of justice, and the ethical demands to which the system and its operators (judges, defenders, prosecutors and all other court officials and auxiliaries) are subject (Annex 5).

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

Decree 2-P of May 12, 1998 provides for the dismissal of any public servant who fail to comply with the provisions.

In addition, Law 8242 of April 9, 2002, establishes the Office of the Public Ethics Prosecutor, the principal function of which is to take the necessary administrative steps to prevent, detect and eradicate corruption and to raise ethical standards and transparency in the public service. That office may also bring charges before the courts against public servants and private individuals whose behavior betrays acts of corruption (Annex 6).

The Office of Criminal Prosecutions for Finance and the Public Service was established by law 8275 of May 6, 2002, and will come into effect on May 17, 2003. Its purpose is not only to prosecute crimes involving the public finances and public service, but also to train judges and prosecutors in these areas (Annex 7). As well, Law 8221 of March 8, 2000, created two specialized prosecutors for crimes involving the public finances and public service (Annex 8).

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

There are no statistical data on implementation of the above standards and mechanisms.

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

A draft bill, "Law on Corruption and Illicit Enrichment in the Public Service", is now under consideration by the Legislature, as Bill 13715. It has already received approval in first reading, and will have to go through a second reading before it becomes law, pursuant to Article 124 of the Constitution.

This legislative initiative is intended to implement measures to prevent, detect and punish corruption involving the public finances. Several Articles deal with the way in which public servants must perform their duties (Article 3).

Article 4 of that text punishes violations of probity by dismissal from public office without compensation, regardless of any civil or penal liabilities that may pertain (Annex 9).

2. Conflicts of interests

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

Costa Rica has various legal instruments for resolving possible conflicts of interest. These include Articles 346 and 347 of the penal code (Law 4573): the first defines illegal enrichment as "the use for purposes of one's own profit or that of a third party of private information or data obtained in the course of one's duties", and the second describes conduct constituting "incompatible negotiations", and punishes any civil servant who directly or indirectly has an interest in any contract or operation in which he is involved by reason of his position (Annex 10).

The Law on Financial Administration and Public Budgets, Law 8131 of September 18, 2001, establishes (Article 110) administrative responsibility, independent of any civil or penal

consequences, for any person who conspires with private individuals or public servants to produce a result damaging to the interests of the public administration, or who uses maneuvers or devices for such purpose, when he is involved by virtue of his position in the adoption of an administrative act, the selection of a contractor, or the execution of an administrative contract (Annex 11). Articles 122 and 123 of that Law establish incompatibilities for managers of the financial administration (Annex 12).

The Law on Administrative Contracting, Law 7494 of April 24, 1995, prohibits persons in specific positions (defined in Article 22) from participating in administrative contracting procedures by institutions subject to the Administrative Contracting Law, and also prevents them from intervening on behalf of third parties (Annex 13). This prohibition is further developed in the Regulations to the Contracting Law, Decree 205038-H of March 6, 1996, Article 24 (Annex 14).

Article 24 of the Regulations to the Administrative Contracting Law serves as a complement in that it obliges the National Supply Office to compile an inventory of individuals and companies covered by the prohibition regime, for the purpose of facilitating general government and the public administration in verifying compliance with this requirement. As well, Article 24.3 obliges the administration to pay particular attention to observing the prohibition covering public servants with direct or indirect influence or participation, in any stage of the administrative contracting procedure, as well as persons who have been involved as advisers at any stage of the procedure or who have participated in preparing the respective specifications, designs and plans.

Similarly, the Law on Illicit Enrichment of Public Servants, Law 6872 of June 17, 1983, defines (Articles 22 and 23) a series of functions that are mutually incompatible (Annex 15).

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

Article 25 of the Law on Illicit Enrichment provides for the dismissal of any person who fails to comply with the above provisions, without prejudice to civil and penal liabilities (Annex 15).

The Law on Administrative Contracting (Article 25) provides that nonobservance of the above standards entails absolute nullity of the bid, the award or the contract, and imposes sanctions provided by that Law on the violating party (Annex 16).

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

There are no statistical data on implementation of the above standards and mechanisms.

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

Although our legislation contains rules to avoid conflicts of interest, as noted above under points a and b of this item, Draft Bill 13715, "Law on Corruption and Illicit Enrichment in the Public Service", will provide a better response, through Articles 15, 16, 17, 18, 19, 38 and 39 (see Annex 9).

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

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

The Law on Financial Administration and Public Budgets (Law 8131) provides that the System of Property Administration and Administrative Contracting is to comprise the pertinent principles, methods and procedures and the agencies participating in the process of contracting, handling and disposing of goods and services by the Central Administration. Article 99 makes the General Directorate of Property Administration and Administrative Contracting the central body of the system, with the powers, among others, to: supervise official purchases by the Central Administration and ensure proper compliance with procedures for contracting, storage and distribution or circulation of goods; ensure proper control over inventories of goods, properties and livestock; prepare an annual report on the status of, and changes to, assets of the Central Administration, and on efforts taken to insure their proper management, so that the Minister of Finance may inform the Comptroller General on this matter (Annex 17).

One of the objectives of the system of property administration and administrative contracting is to ensure that goods and services are managed in accordance with technical and economic criteria, and that government assets are properly maintained, as well as to ensure that goods are acquired in a timely manner, in the public interest, with due regard to the principles of publicity and transparency.

Executive Decree 2487-H of August 23, 1972, establishes procedures for recording asset transactions, and for maintaining a permanent inventory, and determines responsibilities for the administration of national assets. It stipulates the forms and processes to be employed, as well as the classification of assets and other matters relating specifically to asset management. (Annex 18).

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

Among the available mechanisms for enforcing technical rules issued by the Comptroller General's office, which are binding on entities subject to its supervision, are the General Law of Public Administration, the Law of Financial Administration and Public Budgets, and the Law Establishing the Office of the Comptroller General. The Internal Control Law is about to be published in the Official Gazette, and will then enter into force. It establishes the responsibilities of public administrators when the institutions they administer do not have effective internal control, and imposes specific penalties for failure to fulfill those responsibilities.

There are also sanctions of the criminal type, specifically those in Articles 354 and 356 of the penal code, for public officials who use goods or services paid for by the public administration for their own benefit or that of third parties (Annex 19).

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

As mentioned above, the rules governing financial administration and public budgets were recently issued (September 2001), and others have yet to be published, which means that it is too soon to have results available. We are currently in the process of publishing the document and raising awareness within the public administration.

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

Not applicable, since standards and mechanisms of control already exist.

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

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

The Code of Penal Procedures, Law 7594 of April 10, 1996, provides (Article 281.a) that public officials or public employees have the obligation to report prosecutable crimes of which they become aware in the exercise of their functions. That provision must be understood to include acts of corruption (Annex 20).

Article 6 of the Regulations to the Law on Illicit Enrichment of Public Servants, Executive Decree 24885-MP of December 4, 1995, requires every person to report acts of which they become aware that might constitute illicit enrichment (Annex 21).

In addition, Article 4 (2) of the Code of Judicial Ethics requires public officials working for the judicial branch to facilitate and channel complaints of acts inconsistent with probity and good conduct committed by other public officials, regardless of their rank and function (Annex 5).

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

Because the reporting of such acts is an obligation of public officials, failure to do so would constitute the crime of dereliction of duty, as defined in Article 332 of the penal code (Annex 22).

The Public Ethics Prosecutor's Office is a mechanism for enforcing compliance with these rules: its mission is to prevent, detect and eradicate corruption, as well as to raise standards of ethics and transparency in the public service (Annex 6).

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

There are no statistical data available about on the results of implementing the above standards and mechanisms.

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

Draft Law 13715, "Law on Corruption and Illicit Enrichment in the Public Service", provides (Articles 8 and 9) measures that significantly upgrade current standards relating to the reporting of acts of corruption (Annex 9).

CHAPTER TWO

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

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

Since promulgation of the Law on Illicit Enrichment of Public Servants, Law 6872 of June 17, 1983, Costa Rica has had a system for the declaration of income, assets and liabilities for persons holding positions specifically indicated in that Law (affecting some 3500 public servants). For this purpose a registry of sworn financial declaration has been created, under the responsibility of the Comptroller General's office, which has prepared an official form to be used.

The Law on Illicit Enrichment imposes the obligation to file a declaration for public officials specified in Executive Decree 24885-MP of December 4, 1995 (Annex 23).

The declaration must be submitted to the oversight body within 20 working days after assuming office, and must be updated in the second half of May of each year (with a statement of assets acquired during the year). Finally, public officials must file a declaration of assets within one month after leaving their position (Annex 15, Article 12, and Annex 23, Articles 13 to 15).

The declaration must contain information on assets, income, rights and obligations within the country and abroad, with the specifications required by law (Annex 15, Article 8).

It should also be noted that the Comptroller General's office may at any time request an accounting of assets and any increase or use thereof by public servants, who are required to provide the requested information and documentation within the time limit established.

Article 10 of the Law on Illicit Enrichment provides that the registry of information from declarations of assets by public officials is confidential, without prejudice to the information that may be required by the Attorney General's office, the courts, the interested party or special commissions of the Legislative Assembly (Annex 15).

The Regulations to the Law on Illicit Enrichment and the Law itself refer to the criteria that must be used for evaluating the declarations (Annex 15, Article 14, and Annex 23, Article 24).

Costa Rican legislation also provides penalties, in Articles 13 and 27 of the Law on Illicit Enrichment, for failure to comply with the duty to declare assets (Annex 15).

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

There is no information on the results that have been obtained in implementing the above standards and mechanisms.

- c. If no such regulations exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen the regulations that establish methods for registering the income, assets and liabilities of those who perform public functions in certain posts as specified by law and, where appropriate, for making such disclosures public, in accordance with Article III (4) of the Convention.*

Chapter III of the draft Law on corruption and illicit enrichment in the public service, described above, governs all aspects relating to the sworn financial declaration. It contains significant changes from current legislation, primarily with respect to the contents of the declaration of assets (Annex 9).

CHAPTER THREE

OVERSIGHT BODIES

- a. Are there oversight bodies charged with the responsibility of ensuring compliance with the provisions stated in Article III (1), (2), (4) and (11)? If yes, list and briefly describe their functions and characteristics, and attach a copy of the related provisions and documents

The Constitution of Costa Rica (Article 183) establishes the Office of the Comptroller General of the Republic as an auxiliary institution of the Legislative Assembly in its surveillance of the Public Finances; but with full functional and administrative independence in the performance of its duties (Annex 24).

Its powers are set out in Law 7428 of September 7, 1994 (Organic Law of the Office of the Comptroller General of the Republic), Article 1 of which defines it as a fundamental constitutional organ of state, auxiliary to the Legislative Assembly in its oversight of the public finances, and the senior body of the supervision system.

Article 20 of that Law gives the Comptroller General the power to approve contracts signed by the State, and to conduct financial, operational and special audits (Article 21); it may also conduct special investigations, either at its own initiative or at the request of an interested party (Article 22). In addition, according to Article 28, it may act at its own initiative or at the request of a person with a legitimate right or interest, to nullify administrative acts or contracts of persons subject to its control. The task of the office is to use these powers to see to the correct, honorable and adequate fulfillment of public functions, to prevent conflicts of interest, and to ensure the preservation and proper use of resources entrusted to public officials (Article 25).

The Comptroller General's office is required by the Law on Illicit Enrichment to keep a registry of sworn financial declarations filed by all public servants who have this duty, and to investigate

the truthfulness of such declarations, at its own initiative or upon receipt of a complaint, informing the courts of any situation that may have criminal connotations (Annex 15).

As detailed in other sections of this document, the oversight and supervisory powers of the Comptroller General over the public finances have been broadened and supplemented by recent laws, such as the Law on Financial Administration and Public Budgets (Law 8131 of September 18, 2001).

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

There are no statistical data on the results of compliance by the Comptroller General's office with the above-mentioned functions.

Nevertheless, according to Article 32 of its organic law, it must present a report to the Legislative Assembly on May 1 of each year on the performance of its duties and powers during the previous year (Annex 26).

CHAPTER FOUR

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER 11)

1. General questions on the mechanisms for participation

a. Are there in your country a legal framework and mechanisms to encourage participation by civil society and non-governmental organizations in efforts to prevent corruption? If so, briefly describe them and list and attach a copy of the related provisions and documents.

Existing legislation makes no specific provision to encourage participation by civil society and nongovernmental organizations in efforts to prevent corruption. Nor are there any mechanisms to fulfill this function.

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

There is no information available on the results of applying the above mechanisms.

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

Draft legislation is now before the Legislative Assembly to encourage and facilitate participation by the public in voluntary civil society organizations (Annex 27).

While the entire thrust of that bill is to promote greater participation in civil society organizations, section 11 contains measures to encourage voluntary activities (Annex 27).

2. Mechanisms for access to information

- a. *Are there mechanisms in your country that regulate and facilitate the access of civil society and non-governmental organizations to information under the control of public institutions? Is so, describe them briefly, and indicating, for example, before which entity or agency said mechanisms may be presented and under what criteria the petitions are evaluated. List and attach a copy of the related provisions and documents.*

The Costa Rican Constitution (Article 27) recognizes the right of every person to submit petitions, individually or collectively, to any public official or official body. Moreover, Article 30 guarantees free access to administrative departments for purposes of information on matters of public interest (Annex 28).

The Law on Financial Administration provides that the government budget is public, and it must therefore be accessible to the public through the available electronic means (Annex 29).

Article 71 of that Law requires publication in the Official Gazette before any payment is made on behalf of the State (Annex 29).

Presidential Order 3 of May 14 of this year instructs Vice Presidents, Ministers, Vice Ministers, Executive Presidents, Chief Clerks, the Secretary-general of the Council of Government, and all employees in positions of trust to allow public access to any kind of information, except that indicated in rule 13 of the order (Annex 4, Article 11).

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

There are no statistical data available on the application of the above mechanisms.

3. Mechanisms for consultation

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

During its consideration of draft legislation, it is normal for the legislative committee responsible for the initiative to receive visits from interested individuals, to hear their opinions. Hearings for these purposes may be held at the request of the interested parties, or at the initiative of the committee.

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

There are no statistical data reflecting the results of applying the above mechanisms.

4. Mechanisms to encourage active participation in public administration

- a. *Are there mechanisms in your country to facilitate, promote, and obtain the active participation of civil society and non-governmental organizations in the process of public policy making and decision making, in order to meet the purposes of preventing, detecting,*

punishing and eradicating acts of public corruption? If so, briefly describe them and list and attach the related provisions and documents.

The National Directorate for Community Development is one of the mechanisms for facilitating and promoting community participation in public management, since 1967 (Annex 30).

The Office of Popular Initiative was recently created within the Legislative Assembly, to encourage citizen participation in the legislative function. In the last few months that office has been organizing "citizen participation days" to publicize its functions and services, and to help improve the image of the legislative branch (Annex 31).

Four "citizen participation days" have been held so far, representing the beginning of an active participatory relationship with the communities, in which more than 4000 people have had the opportunity to become acquainted with the Legislature, thereby strengthening the principle of participatory democracy.

Law 8281 of May 28, 2002 approved amendments to Articles 105, 123, 124 and 129 of the Constitution, and added sections 102 and 195. Those amendments institute the popular referendum for approving or repealing laws and promoting partial amendments to the Constitution (Annex 32).

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

As noted under section 3.a of this chapter, the "citizen participation days" have established important contact with the communities that have been visited to date. As a result, the Office of Popular Initiative has received 53 draft bills on various topics, dealing with local and national issues.

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

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

The departmental Comptrollers constitute an effective mechanism that allows users to participate in monitoring public management. While primarily intended to defend the rights of the citizens by improving the provision of services by public institutions, this mechanism is also directly useful for purposes of preventing, detecting, punishing and eradicating acts of public corruption (Annex 33).

One function of the departmental Comptrollers, according to Article 3.a of Decree 23 721 of October 6, 1994, is to receive, process and forward complaints from users, as a means of guaranteeing the rights of the citizens. Another aspect that permits participation by civil society is the provision in Article 3.g of that Decree that requires the Comptrollers to prepare, update and publish a "Services Manual", which must contain clear information on users' rights and obligations.

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

There are no statistical data on the results from applying the above participatory mechanism for monitoring public management.

CHAPTER FIVE

ASSISTANCE AND COOPERATION (ARTICLE XIV)

1. Mutual Assistance

- a. Briefly describe your country's legal framework, if any, that establishes mechanisms for mutual assistance in processing requests from foreign States that seek assistance in the investigation and prosecution of acts of corruption. Attach a copy of the provisions that contain such mechanisms.*

There are no specific mechanisms of reciprocal assistance for processing requests from the authorities of foreign states relating to the investigation or prosecution of acts of corruption. Nevertheless, a number of treaties of judicial assistance have been signed, including the Central American Treaty for Mutual Legal Assistance in Criminal Matters, Law 7696 of October 3, 1997, under which requests for legal assistance may be submitted, involving acts of public corruption (Annex 34).

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

It is not possible to determine whether the government of Costa Rica has formulated or received requests for reciprocal assistance under the Convention, because the bodies responsible for processing such requests do not keep records from which such information can be obtained.

- c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (1) of the Convention.*

Article 13 of the Draft Law on Corruption and Illicit Enrichment in the Public Service is intended to apply the commitment contained in Article XIV (1) of the Convention (Annex 9).

That section provides that the Comptroller General's office may request assistance and international cooperation in obtaining evidence and conducting investigations through the Central Authority.

2. Mutual technical cooperation

- a. Does your country have mechanisms to permit the widest measure of mutual technical cooperation with other States Parties regarding the most effective ways and means of preventing, detecting, investigating, and punishing acts of public corruption, including the*

exchange of experiences by way of agreements and meetings between competent bodies and institutions, and the sharing of knowledge on methods and procedures for citizen participation in the fight against corruption? If so, describe them briefly.

At this time there are no mechanisms that directly allow for mutual technical cooperation with other states parties regarding the most effective ways and means of preventing, detecting, investigating and punishing acts of public corruption.

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

Not applicable

c. If no such mechanisms exist, briefly indicate how your State has implemented the obligation, in accordance with Article XIV (2) of the Convention.

Article 13 of the Draft Law on Corruption and Illicit Enrichment in the public service proposes a mechanism to apply the commitment contained in Article XIV (2) of the Convention. That provision authorizes the Comptroller General to provide cooperation and assistance to the executive branch in signing international conventions so that agencies responsible for overseeing the public finances may collect evidence and conduct investigations outside the national territory, undertake joint studies or audits, and facilitate technical cooperation and the exchange of experience (Annex 9).

d. Has your county developed technical cooperation programs or projects on aspects that are referred to in the Convention, in conjunction with international agencies or organizations? If so, briefly describe, including, for example, the subject matter of the program or project and the results obtained.

No programs or projects of technical cooperation have been developed.

CHAPTER SIX

CENTRAL AUTHORITIES (ARTICLE XVIII)

1. Designation of Central Authorities

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

No central authority has been designated for the purpose of formulating and receiving requests for mutual assistance under the Convention.

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

No central authority has been designated for the purpose of formulating and receiving requests for mutual technical assistance under the Convention.

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

Not applicable

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

Costa Rica will be appointing the central authority to fulfill the provisions of Article XVIII of the Convention.

2. Operation of Central Authorities

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

Not applicable,

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

Not applicable

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

a. State Party COSTA RICA

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

()Mr. José Enrique Castro
Marín

()Ms. _____

Title/position: Procurador Director Area Derecho Penal

Agency/office: Procuraduria General de la Republica

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