

UPDATED RESPONSE OF COSTA RICA

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

I. BRIEF DESCRIPTION OF THE LEGAL-INSTITUTIONAL SYSTEM

Costa Rica is a free and independent democratic Republic, as defined in the first article of its constitution.

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

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.

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 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 (Article 139 of the Constitution).

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 by the Chamber of Cassation of the Supreme Court (in criminal matters there is the Tribunal of Penal Cassation, the highest body), 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 has 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 and removes 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. Article 48 gives that Chamber another very important power, which is to protect the fundamental rights of individuals through the recourse of habeas corpus and appeal for constitutional protection (*amparo*).

In effect, because of the role that the Constitution assigns the Office of the Comptroller General, it operates as a guarantor and supreme overseer of the healthy, comprehensive and efficient management of the public finances, understood as the proper use of public funds not only by public entities but by any private individual to whom those funds are transferred (see Articles 1, 4, 5 and 6 of the Organic Law of the Office of the Comptroller General of the Republic).

Moreover, the law creating this oversight body gives a broad interpretation to the public finances (see Annex 22, Article 8), referring not only to public funds (see Annex 22, Article 9) but also to the juridical, administrative and financial rules relating to the budgetary process, administrative contracting, internal and external control, and the responsibility of public servants.

The recently approved General Law on Internal Control, Law 8292 of July 31, 2002, extends this oversight duty to the Active Administration, obliging it for example to seek in all its activities to protect and preserve the public purse against any loss, misappropriation, improper use, irregularity or illegal act, as well as to comply with legal and technical rules pursuant to Article 8 of the law (Annex 3).

General comments. In responding to this questionnaire, we used information provided by public agencies specifically responsible for the matters in question. The agencies providing information and cooperation were: Ministry of Justice, Office of the Comptroller General, Ministry of the Presidency, Ministry of Finance, and General Directorate of the Civil Service.

It should also be noted that, subsequent to the initial response to this questionnaire, significant reforms have been made that have entailed substantive changes in the responses provided on the first occasion. In the first place, we may point out that the government that took office in May 2002 has already defined specific policies for implementing the provisions of the Convention. Moreover, entry into force of the Law on Internal Control has implied changes in the system of controlling state assets. Finally, we have included results from recent years.

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.*

Costa Rican legislation contains a series of standards for the correct, honorable and adequate fulfillment of public functions. In some cases those standards are generally applicable to all public officials, but the country also has rules pertaining to particular sectors.

Before examining existing legislation, it is important to note that the Costa Rican concept of "public official" is very broad. For example, Article 111 of the General Law on Public Administration (LGAP, See Annex 4) defines a public employee or civil servant as any person providing services to the administration or on its behalf, as part of its organization, by virtue of a valid act of appointment, with full independence of the imperative, representative, remunerated, permanent or public nature of the respective activity.

It should also be noted that de facto public officials, who perform the same activity as a public servant but without appointment or effective appointment, are responsible to the administration and to the public (Article 115 of the LGAP, Annex 4), and they also incur penal responsibility if they are found to have committed any punishable offense through the irregular exercise of their functions.

Consistent with the foregoing, those rules of ethical conduct will apply in a general way to any public official, as defined above.

1. General application:

The Constitution, as the highest Law of the land, governs (Article 11, Annex 1) exercise of public functions, and provides that a public official is a simple depository of authority, who is required to fulfill the duties imposed by law and may not pretend to any powers not granted by law. Moreover, Article 184 of the Constitution requires public servants to take an oath to obey the Constitution and the laws (Annex 1). Finally, it requires that action to hold public servants criminally accountable for their acts is public, and expires under a statute of limitation of 10 years (Annex 24, Article 31 of the Code of Penal Procedures).

An amendment to Article 11, by means of Law 8003 of June 8, 2000 (Annex 1) added a paragraph which provides that the public administration shall be subject to evaluation of results and rendering of accounts, and that public officials will have personal responsibility for fulfilling their duties.

Moreover, Articles 111 to 119 of the LGAP establish a series of rules governing exercise of public functions.

2. Particular application:

2.1 Employees of the executive branch:

Articles 191, 192 and 193 of the Constitution (Annex 1) governing the Civil Service Regime. The Constitution establishes certain rules of conduct that must be observed in the work of public servants, such as: (a) public employees shall be appointed on the basis of proven suitability, which will prevent political corruption in the form of influence peddling through appointments, thereby permitting and guaranteeing the selection of employees who provide excellent service; and (b) public servants may be removed only on the grounds for justified termination, which guarantees the correct, honorable and adequate fulfillment of public functions. Any public servant whose action causes damage to the interests of the state will be subject to administrative proceedings culminating in disciplinary sanctions. Employees covered by the Civil Service Regime are subject to the provisions of the "Civil Service Statute", Law 1581 of May 30, 1953.

The Civil Service Statute establishes rules of conduct typified by the Merit Regime, which must be obeyed not only by public servants but by all persons covered by that Law, in order to ensure the correct, honorable and adequate fulfillment of public functions.

In hierarchical terms, the President of the Republic and the ministers, although they have the constitutional power to appoint and remove public servants, must respect the provisions of the Civil Service Statute, acting in due coordination and with the greatest transparency in appointing persons to public office, with the exceptions established by that Law, while the legislation requires that recruitment and selection be done in accordance with a special regime governed by merit.

Legislation imposes rights, duties and obligations on public servants, including: (a) to respect the law (public service statute and its regulations, and any other law governing public employment relations) and to fulfill the obligations inherent in their positions; (b) to observe the necessary discretion in matters relating to their position, which by their nature or as a consequence of specific instructions require such discretion, even after they have left their position, without prejudice to the obligation to report any illicit act, pursuant to section 281 of the code of penal procedures (Annex 24); (c) to refuse any gifts or compensation offered in return for acts inherent to their employment; (d) to maintain dignity and decorum in the performance of their duties and in their social life; (e) to observe due consideration in their official relations with the public, so as to avoid any complaint of poor service or attention; (f) public servants are prohibited from engaging in partisan political activity in the performance of their functions during elections, and from violating the rules of neutrality established by the electoral code; seeking or receiving, without the express permission of the ministry in which they work or to which they report, any additional pay or subsidies from other official entities; they are also prohibited from exercising a profession, if they have academic degrees of bachelor or higher.

Positions of trust in the executive branch:

Article 4 of the Civil Service Statute (Annex 5) declares the following positions to be positions of trust: heads of diplomatic missions and diplomats on temporary mission, the Prosecutor General, provincial governors, the Secretary and other personal assistants of the President of the Republic, chief clerks of the ministers and ministerial chauffeurs, persons directly subordinate to ministers and vice ministers, to the number of 10.

Costa Rican law also includes Order 2-P of May 12, 1998 (Annex 5), a body of rules governing public ethics, applicable to all persons in positions of trust. That decree establishes a series of prohibitions intended to secure the correct, honorable and adequate fulfillment of public

functions. It is very important, because the Civil Service Statute and its regulations do not apply to positions of trust.

Similarly, Order 3 of May 8, 2002 (Annex 7) regulates other aspects of public service ethics. It is applicable to the President of the Republic, the Vice Presidents, Ministers, Vice Ministers, Executive Presidents, Chief Clerks, the Secretary-general of the Council of Government, and all persons in positions of trust.

2.2 Employees of the judicial branch:

The Organic Law of the Judicial Branch, Law 7333 of May 5, 1993, contains rules of conduct for public officials (Article 8, Annex 8). The Code of Judicial Ethics (Annex 9), approved by the Supreme Court on February 28, 2000 (Article XXXIV) develops the basic concepts governing the administration of justice, and the ethical demands to which the judicial system and its operators are subject (judges, defenders, prosecutors, and all other officials of the tribunals and auxiliary offices).

2.3 Employees of the Legislative Assembly:

Article 8 of the Law Governing Personnel of the Legislative Assembly, Law 4556 of April 29, 1970 (Annex 10) provides that the Civil Service Statute and Regulations shall apply in recruiting and selecting personnel. However, section 9 of that Law establishes entry requirements, whereby a candidate must have moral aptitude for the position, must not be related by consanguinity or affinity to the third degree with regular employees of the Assembly, or with the Deputies. Regular employees are also subject to an annual performance appraisal. Section 34 of the Personnel Law (Annex 10) defines employees' obligations, including the following: (a) to respect the law (public service statute and its regulations, and any other law governing public employment relations) and to fulfill the obligations inherent in their positions; (b) to maintain dignity and decorum in the performance of their duties and in their social life; (c) to observe due consideration in their official relations with the public, so as to avoid any complaint of poor service or attention.

2.4. Employees of the municipalities:

Public employees working for the municipalities are subject to the provisions of the Municipal Code, Law 7794 of April 30, 1998, Article 115 of which establishes the administrative career as the means for human development and promotion, consisting of a comprehensive system governing employment and labor relations between employees and the municipal administration (Annex 11).

The municipal code (Article 147, Annex 11) defines the duties of public servants, and establishes rules of conduct to guarantee the correct, honorable and adequate exercise of functions, such as the following: to respect the law and its regulations and to fulfill the obligations inherent in their positions; to provide the services contracted with absolute dedication, intensity and quality, and to take responsibility for their acts, conducting their tasks and duties with full respect for legal, moral and ethical principles; to take proper care in the use of municipal resources; to observe good customs and discipline in their work, and to treat their fellow workers, superiors and authorities respectfully; to be accountable for damage caused through their own error or negligence; to maintain discretion in matters relating to their work or other municipal offices, disclosure of which would be contrary to the interests of the municipalities; to make suggestions to the proper authorities on ways to improve the performance of their work and the fulfillment of their duties.

Article 148 also establishes prohibitions, whereby a public servant may not act for purposes other than those indicated in his working contract; nor undertake working obligations in other public or

private entities, or take on commitments that would conflict with the municipal workday; they are prohibited from participating in activities relating to private firms or interests that could cause damage to municipal interests or compete with them; they may not use or divert municipal goods and resources for any purpose other than the public interest; they may not engage in electoral activities while performing their functions or during the workday. They are also prohibited from accepting gifts or compensation in return for acts inherent to their employment, and from seeking or receiving, without express approval of the Council, any subsidies from other public entities for the performance of their duties.

2.5 Employees of the Ombudsman's office:

The Autonomous Statute of Service of the Ombudsman's Office, Decree 600 of December 20, 2001, establishes obligations for public servants of that institution, specifically in Article 43 and 44 (Annex 13). Article 45 (Annex 13) describes a series of prohibitions that in some cases constitute rules to ensure the proper exercise of the function, such as: taking time from their work to devote themselves to matters unrelated to the institution; receiving two or more salaries from the public administration, except for university teaching or research, providing there is no time conflict; using office supplies, machines, telephones or any other working tool for their own benefit or that of third parties (except as provided in the Statute for the Award of Scholarships and Subsidies for Studies and Training for Public Servants); removing documents and equipment from the office even for performing their official work, without permission from their superior. Any removal of assets must be done through the procedure established by the Department of Supply and General Services; receiving gifts or benefits as a result of their services or their intervention as a public servant; engaging in business or activities incompatible with their status as employees of the Ombudsman's office.

2.6 Employees of the Ministry of Finance:

The Ministry of Finance has its own service regulations, Decree 25271-H of June 12, 1996, governing service relations between that Ministry and its employees. It seeks to ensure greater efficiency in the services provided by the Ministry of Finance by making maximum use of its human and material resources.

The regulations (Title V, "Ethical Principles and Duties that must govern the conduct of employees") and Article 91 define ethical principles for the public service and the public servant (Annex 14) and ethical duties of the public servant are set forth in Articles 93 to 105 (Annex 14). Article 106 defines a series of obligations for employees of the Ministry in general, including: to refuse any gifts or compensation offered in return for acts inherent to their functions, duties and obligations, and to report any such offer, etc.

2.7 Employees of the Comptroller General's office:

In the case of the Comptroller General's office, the constitutional body auxiliary to the Legislative Assembly in overseeing the public finances, the specific features of the working relationship between the institution and its employees, as well as the duties, obligations and responsibilities of employees, are regulated in the Autonomous Statute of Services, which is supplemented by the Regulations on Abstentions and the Code of Ethics for Employees of the Oversight Body (Annex 38), which contain regulations and prohibitions that must be observed by those employees in the performance of their duties and in deciding matters submitted to them.

In the case of the oversight bodies and internal auditors of the various institutions, the audit rules issued by the Comptroller General govern the conduct of auditors with respect to ethics, training and professional diligence, and the handling of human relations in the exercise of their functions.

Finally, the Comptroller General issued an ethical framework in 2003 declaring the principles that must govern the conduct and activities of all employees who, under the Constitution, are responsible for overseeing the public finances, together with observance of the juridical rules governing their action as public servants (Annex 38).

2.8 Senior officials of each institution:

Article 13.b of the General Law on Internal Control (Annex 3) requires senior officials in the public sector to maintain and demonstrate integrity and ethical values in the exercise of their duties and obligations, and through their leadership and their actions to promote those values in the rest of the organization, to achieve effective compliance by its employees.

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.

Costa Rican legislation provides a series of mechanisms for enforcing compliance with rules of conduct: some are of general nature, and others are applicable to specific employees:

The General Law on Public Administration (Article 199 to 213, Annex 4) defines the responsibility of the public servant. It establishes the assumptions under which officials may be held liable to third persons, the internal distribution of responsibilities, and disciplinary responsibility flowing from the exercise of actions, acts or contracts contrary to law, involving deceit or gross negligence.

Another aspect that facilitates the enforcement rules of conduct for public servants is the fact that the different laws clearly establish the duties and responsibilities of public servants, and the corresponding sanctions for failing to observe them, as established in previous section. This constitutes a very important, general tool of prevention.

The sanctions regime in Costa Rica includes civil, penal and disciplinary liability. Civil liability for public servants is governed by Article 1045 of the Civil Code (Annex 16).

Penal responsibility is incurred by committing the following offenses defined in the penal code: usurping of authority (Article 310), abuse of authority (Article 331), dereliction of duty (Article 332), denial of assistance (Article 333), use of force against legitimate acts (Article 334), illegal appointments (Article 337), violation of jurisdiction (Article 338), disclosure of secrets (Article 339), *cohecho impropio* (where the official accepts a bribe to commit an act that constitutes a crime, Article 340), *cohecho propio* (where the official accepts a bribe to perform or to abstain from an act that is a normal part of his duties, Article 341), aggravated corruption (Article 342), acceptance of gifts for an act performed (Article 343), corruption of judges (Article 344), illicit enrichment (Article 346), incompatible negotiations (Article 347), extortion (Article 348), illegal exactions (Article 349), maladministration (Article 350), embezzlement (Article 354), fraudulent facilitation of removal of funds (Article 355), misappropriation of funds (Article 356), embezzlement and misappropriation of private funds (Article 356 bis), and unjustified delay in payment (Article 357). (See Annex 17).

The Civil Service Statute (Articles 41 to 44, 46 and 47) provides a complete system for imposing disciplinary sanctions on officials who commit offenses in the performance of their duties (see Annex 5).

In terms of disciplinary responsibility, this depends on the regime under which the official is serving: for those covered by the civil service regime, Article 43 of the Civil Service Statute provides mechanisms for enforcing due process, pursuant to Article 39 of the Constitution, which are initiated by the Director General of the Civil Service. Public servants are suspended for the course of the investigation, if they are suspected of committing a crime.

If an official is accused of a crime of corruption or any other illegal conduct, he may be suspended at any moment as a result of an arrest warrant or an order for preventive imprisonment.

The Personnel Law of the Legislative Assembly (Article 36, Annex 10) establishes the classes of disciplinary penalties that may be imposed. They are imposed at the request of the Administrative Director of the Office of the Assembly, submitted through the Director General of the Civil Service i.e. sanctions are imposed in accordance with the Civil Service Statute and Regulations.

The Organic Law of the Judicial Branch, Law 7333 of May 5, 1993, establishes a disciplinary regime to ensure the efficiency, correctness and probity of actions by the judicial branch, and to guarantee to the citizens the proper administration of justice. Articles 174 to 222 (Annex 8) establish a list of offenses and the corresponding sanctions, the procedure to be followed in applying the regime, and the bodies competent to do so. An important aspect is that individuals may submit complaints, on the basis of which disciplinary proceedings must be opened.

The municipal code (Article 149, Annex 11) provides disciplinary sanctions for improper exercise of public functions.

The Autonomous Statute of the Ombudsman's Office (Article 45) provides that failure to observe the rules of conduct established in Articles 43, 44 and 45 will be punished in accordance with the severity of the offense, pursuant to Chapter XII, which governs the administrative disciplinary procedure. As well, Article 45 indicates that duly demonstrated violations of paragraphs o) and p) are in all cases considered grave offenses (Annex 13).

The Autonomous Regulations of the Ministry of Finance include a disciplinary regime applicable to officials of that Ministry, through Articles 110 to 119 (Annex 14).

Another important preventive mechanism in Costa Rica is the provisions governing eligibility for public service employment. In principle, candidates must demonstrate their suitability, and must be selected through a process that guarantees efficient and adequate service, including a moral and physical assessment of their ability to perform.

The Civil Service Statute (Article 20, Annex 5) provides that one of the requirements for employment in the civil service is moral and physical aptitude to perform the functions, which must be demonstrated through information on lifestyle and habits, and certifications from the Judicial Registry of Criminals, the National Archives, the Investigations Office and the Ministry of Public Health, a requirement that is reviewed by the Civil Service Directorate. As well, it calls for annual performance appraisals by the superior officer, and that appraisal is taken into account for purposes of salary, scholarships, etc. The Civil Service Statute and regulations add to these mechanisms. First, Article 9 (Annex 12) establishes additional requirements for entry into the civil service, including: (a) the candidate may not be linked by a relationship of consanguinity or affinity to the third degree with the immediate supervisor, or with the latter's immediate superiors; (b) he must have satisfactory physical, mental and moral aptitudes. This must be demonstrated by the appropriate investigation, for which public institutions and civil servants must provide all the information requested. If as a result of such investigation the candidate is

found to be unsatisfactory, he may be declared temporarily or permanently ineligible; he must not have been dismissed for violating the provisions of the statute, the regulations or the autonomous regulations, during the last three years, or longer, if in the judgment of the Director General the severity of the offense so merits; any person will be deemed indefinitely ineligible if he has been dismissed for the second time, for cause, from the executive branch or from any state institution

When a person is selected to work in the Comptroller General's office, it must be verified from the judicial archives that he is not judicially barred from occupying a public post. It must also be determined whether any of the institutions in which he previously worked had requested that he be disqualified from positions dealing with the public finances.

The Costa Rican system also has various institutions to investigate complaints or violation of rules of conduct, at their own initiative or at the request of third parties:

1. The Ombudsman's Office (*Defensoría de los Habitantes*). The main functions of the institution are: (a) to undertake investigation, at its own initiative or upon request, to clarify actions, acts or omissions in public sector administration; (b) to inspect public offices, without prior notice, and to demand any documentation and information necessary for fulfilling its functions; (c) to report to the Supreme Court or the Judicial Inspectors Office any administrative irregularity attributable to the judiciary; (d) to bring judicial or administrative action as provided by law, at its own initiative or upon request by an interested party.

2. The Office of the Public Ethics Prosecutor. Its main function is to take the administrative steps necessary to prevent, detect and eradicate corruption and to raise ethical and transparency standards in the public service. As well, it may lay charges before the courts against public officials and private persons suspected of corruption (Annex 28, Article 3).

3. The Comptroller General's office. As the constitutionally appointed body for overseeing the public finances, this Institution receives complaints from interested parties.

4. The Attorney General's office (*Ministerio Público*). All offenses against the duties of public service are prosecutable, for which reason any person who is aware that an official has committed such an offense may report it directly to the Attorney General's office. It is important to mention that since 2002, two special prosecutors have been established, by Law 8275 of May 6, 2002, to handle offenses involving the public finances and the public service. The purpose is not only to prosecute crimes against the public finances and the public service more effectively, but also to train judges and prosecutors in these matters.

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

Results have been reported by the following institutions:

1. The Comptroller General's office has a complaints unit that allows citizens to report acts of corruption: more than half of the audits conducted in the last two years originated from citizen complaints (Annex 39).

The Comptroller General's office has also reported results in the exercise of its power to conduct audits and investigations to guarantee the legality and efficiency of internal controls and the management of public funds in entities subject to its supervision. Investigations of this kind involve verifying compliance with rules for the correct, honorable and adequate fulfillment of

public functions. The attached table summarizes the results from applying these instruments (Annex 40).

2. Civil Service. The results obtained from applying the mechanisms of the civil service regime are found in Annex 41.

3. Ministry of Finance. The Ministry of Finance has dismissed 35 employees in 2003 and to date in 2004 for acts of corruption.

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 number of pieces of legislation are currently before the Legislature that would establish rules of conduct for public servants in the exercise of their functions. These include:

1. Code of Rules of Conduct of the Public Servant, bill 14943. This code is intended to assist in establishing a policy of government action against public corruption, in order to strengthen the public credibility of the system and of the government, and thereby facilitate governance and public action.

The proposed code would apply to all public servants, in both the central and the decentralized sectors, to autonomous institutions, and to other public entities, including entities of territorial autonomy such as municipalities, and those of organic autonomy, such as the public universities.

The ethical rules contained in that code call for making optimal use of public resources, and guaranteeing the efficiency of the state apparatus. It also proposes creation of a Ethics Commission in each public institution, the main function of which would be to publicize and promote the code among employees and clients. The commission may also hear complaints for violations of its provisions and may issue warnings when the nature of the offense does not require more severe sanctions, which must be imposed by a higher authority on the basis of its report. In the case of employees of the central administration, these important functions are assigned to the civil service.

2. Code of Ethics for the Costa Rican Public Employee, bill 14922. This draft law, besides systematizing and establishing clearly and accurately the moral precepts that must govern the performance of public servants, will also serve as an instrument to reflect the human aspect of the service, and the conducts and attitudes that flow from this particular form of interpersonal relationship that exists between the public administration, its officials or servants, and the people it administers.

3. Code of Parliamentary Ethics, bill 14957. This will provide a transparent procedure for debating and resolving conflicts of interest that occur in the legislative sphere, and to sanction acts contrary to moral and social values. It seeks to prevent the abuse of parliamentary functions for personal economic gain or for the benefit of political parties, or relatives and friends.

The Code of Parliamentary Ethics constitutes an indispensable tool for removing the barrier between the moral values of society and the values of its representatives, and will be very useful

for guaranteeing that the Legislative Assembly of Costa Rica, and more importantly its Deputies, fulfill the noble mission that the people have bestowed upon them.

4. Law on Corruption and Illicit Enrichment in the Public Service, bill 13715. This bill is at a very advanced stage, and is already under debate in plenary session. The current draft is the result of a comprehensive review of the present law on illicit enrichment. At the same time, however, it reflects the precepts of the Inter-American Convention against Corruption, which Costa Rica has ratified, and this initiative therefore seeks to satisfy the commitment that the government has made in ratifying it.

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 Rican legislation contains a series of rules of conduct intended to prevent conflicts of interest in the performance of public functions.

The Constitution contains rules to avoid conflicts of interest:

ARTICLE 109. The following may not be elected representatives or registered as candidates for that office: The President of the Republic or anyone acting as such at the time of the election; Cabinet Ministers; the regular Justices of the Supreme Court of Justice; the regular members and alternates of the Supreme Electoral Tribunal, and the Director of the Civil Registry Office; the military in active service; those having jurisdiction or exercising civil or police authority over any province; managers of autonomous institutions; relatives of the person who is then holding office as President of the Republic, to the second degree of consanguinity or affinity inclusive. These incompatibilities affect anyone holding the aforesaid positions within six months prior to the date of the election.

ARTICLE 111. After taking the oath of office, no representative may accept any position or employment with other State Branches or autonomous institutions.

ARTICLE 112. The legislative function is also incompatible with the holding of any other public office of popular election. Representatives may not enter into any contract with the State or its autonomous institutions, directly or indirectly or through representation, or obtain any concession of public property that may involve a privilege, or serve as directors, administrators or managers of enterprises which enter into contracts with the State for public works, furnishing of supplies, or operation of public utilities. Violation of any of the prohibitions contained in this or the foregoing Article shall result in the loss of the credentials as representative.

ARTICLE 132. The following may not be elected President or Vice President:

- 1) The President who has served as such during any period, or a Vice President or whoever has replaced him, serving during most of the constitutional term.
- 2) A Vice President who has held such status during the twelve months preceding the election, and any person who, acting as such, may have occupied the Presidency for any period during such term;
- 3) Any ancestor or descendant by consanguinity or affinity or sibling of the person occupying the Presidency of the Republic at the time of the election, or of any person who has held such office for any period during the six months preceding that date;
- 4) Anyone who has been a Cabinet Minister during the twelve months prior to the date of the election;

5) The regular Justices of the Supreme Court of Justice, the regular and alternate Justices of the Supreme Electoral Tribunal, the Director of the Civil Registry, the Directors or Managers of autonomous institutions, the Comptroller General of the Republic and the Assistant Comptroller. This disqualification includes persons who have held said positions within twelve months before the date of the elections.

ARTICLE 143. The office of Minister is not compatible with the exercise of any other public position, by popular election or otherwise, except when special laws establish additional duties for them. The rules, prohibitions and sanctions set forth in Articles 110, 111, and 112 of this Constitution are applicable to Ministers when appropriate.

ARTICLE 160. No person related to a member of the Supreme Court of Justice by consanguinity or affinity to the third degree inclusive may be elected Justice.

ARTICLE 161. The position of Justice is incompatible with that of any official of the other Supreme Branches.

The Law on Administrative Contracting, Law 7494 of May 2, 1995 (Annex 19), governs all aspects of contracting by organs of the executive, judicial and legislative branches, the Supreme Elections Tribunal, the Comptroller General's Office, the Ombudsman's Office, the decentralized territorial and institutional sector, non-state public entities, and public enterprises. It also applies to any person, individual or corporation, who makes use of public resources, wholly or in part.

The Administrative Contracting Law prohibits participation by persons in the positions specified in Article 22 (see Annex 19) in administrative contracting procedures by institutions subject to the Law, and also prohibits direct or indirect intervention with the officials responsible for the procedural stages of administrative contracting, on behalf of third parties (Article 24). This prohibition is further developed in the regulations to the Contracting Law, Decree 25038-h of March 6, 1996 (Annex 20, Article 24).

Article 24 of the regulations to the administrative contracting law (Annex 20) is a supplementary provision, requiring the National Supply Office to maintain an inventory of corporations and individuals covered by the prohibitions regime, to help the government and public administration in general to verify compliance with the Law. As well, Article 24.3 (Annex 20) requires the administration to pay particular attention to enforcement of the prohibitions covering public officials with influence or with direct or indirect involvement, at any stage of the administrative contracting procedure, and persons who have been involved as advisers at any stage of the proceedings or who have participated in preparing the respective specifications, designs and plans.

The Law on Illicit Enrichment of Public Servants, Law 6872 of June 17, 1983, Articles 22 and 23 of which (Annex 21) define a series of functions that are mutually incompatible when performed by public servants.

The General Law on Public Administration, Law 6227 of May 2, 1978, Articles 230 to 238 of which (Annex 4) refer to abstention or disqualification for preventing conflicts of interest.

The Law on Internal Control, Law 8292 of July 31, 2002, section 34 of which (Annex 3) lists the prohibitions applicable to the internal auditor, the Deputy internal auditor, and other internal audit officials, who are prohibited from: performing functions and acts of active administration, except as necessary for the fulfillment of their duties; forming part of any decisional body for an administrative procedure; exercising a profession outside the position, with the exception of strictly personal affairs, or those of one's spouse or relative to the third degree, or where the person is not a full-time employee, provided this does not give rise directly or indirectly to

conflict of interest. This prohibition does not apply to teaching, provided it is done outside working day. The Law also prohibits participation in political and electoral activities, except for casting votes in national and municipal elections; revealing information about audits or special audit studies that the person is conducting, or about investigations into possible civil, administrative or criminal liability for officials of entities and bodies subject to the Law.

Apart from these prohibitions, the General Law on Internal Control provides control mechanisms for each state entity or body, for detecting conduct that might constitute corruption on the part of civil servants.

The Law on Financial Administration and Public Budgets, Law 8131 of September 18, 2001, Articles 122 and 123 of which (see Annex 22) establish incompatibilities for senior officials of the financial administration system.

This Law has given rise to a manual aimed at officials involved in managing the public finances. The manual establishes rules of conduct, preventive measures, and responsibilities in the exercise of the duties. It is known as the Manual on General Standards of Internal Control and Entities and Organs Subject to Supervision, and was published in the Official Gazette No. 107 of June 5, 2002 (Annex 23).

The Civil Service Regime:

The Civil Service Regime, as indicated above, applies to most public officials of the executive branch and is governed by the provisions of the Constitution, the Civil Service Statute, and the regulations thereto.

The Regulations to the Civil Service Statute provide rules to prevent conflicts of interest for public servants. Article 51 establishes prohibitions (Annex 12) including the following: to intervene directly to obtain concessions from the public administration, or an extension to a concession, or any other benefit that implies a privilege; to provide services, remunerated or not, to be a member, director, administrator, adviser, sponsor or representative of natural or legal persons signing contracts with the state, and obtaining privileges or subsidies, when the public official intervenes directly or indirectly by reason of his position in the granting of the contract or its extension, or of the subsidy or privilege; this prohibition does not apply to membership in cooperative societies. Public servants are deemed to intervene indirectly when they participate in deciding the award or when they belong to an agency responsible for preparing specifications for contracts, if these are to be signed with the spouse or next of kin.

It is also important to mention the rules governing impediments, excuses and challenges, contained in Article 64 to 73 of the Regulations to the Civil Service Statute.

The Personnel Law for the Legislative Assembly. Article 35 (Annex 10) establishes the following prohibitions for employees of the Legislative Assembly: to conduct partisan political activity in the performance of their duties, or to violate the rules of neutrality established in the elections code; to collect or solicit, directly or indirectly, contributions, subscriptions or payments from other public servants, except in specific instances provided for in the Internal Working Regulations; to apply to subordinates any sanction that implies political reprisals, or that violates any other right granted by law; and to accept gifts or compensation for performing acts inherent to their employment.

The Organic Law of the Judiciary. Article 9 (Annex 8) establishes a series of prohibitions for judicial officials: they may not exercise their profession outside the Judiciary; they may not

facilitate or assist unauthorized persons to practice legal advocacy; they may not perform any other public employment, nor may they direct congratulations or censure to public officials or corporations, on account of public acts. They are also prohibited from participating in political electoral activities, from taking an undue interest in matters pending before the courts, or to express publicly their opinion on those matters, serve as experts before the courts, or receive any type of remuneration from parties to a process.

Procedural laws contain a series of requirements that will oblige judges to excuse themselves from hearing matters under certain circumstances. These are found in the Code of Penal Procedures, Law 7594 of April 10, 1996, (Article 55, see Annex 24) and in the Code of Civil Procedures, Law 7130 of August 16, 1989 (Articles 49 to 84, see Annex 25).

The Law on the Public Ombudsman's Office, Law 7319 of November 17, 1992. Article 9 (Annex 26) establishes prohibitions and incompatibilities for the person serving as the Public Ombudsman, and employees of that institution. The position is incompatible with any other similar position, public or private, with the exception of university teaching and research; any incompatibility must be reported within 10 days after the person's appointment, and before taking office; no employee of the Ombudsman's office may participate in partisan political activities; the Public Ombudsman and professional servants of the office may not exercise professions beyond their position, except for strictly personal affairs or those of their spouse or next of kin, unless there is an impediment because of a direct or indirect interest of the Ombudsman's office itself.

The Organic Law on the Comptroller General's Office. Article 40 (Annex 2) defines impediments to the position of Comptroller General and Deputy Comptroller General, who may not be related to each other by blood or marriage, to the fourth degree. Such impediment also applies to the relatives of the President of the Republic, Vice President of the Republic and cabinet ministers, to the fourth degree. Article 48 establishes a series of prohibitions designed to avoid conflicts of interest: these prohibit exercising a profession outside one's position, except for strictly personal affairs or those of spouses or next of kin (but not if there is a direct or indirect interest on the part of the Comptroller General's office); performing any other public position or providing other services to the public, except where specifically authorized by law. This prohibition does not apply to teaching, which is to be regulated by the Comptroller General; participating in political electoral activities, except as permitted by law; intervening in the process or resolution of matters submitted to their jurisdiction, in which they have a direct or indirect personal interest, or when the parties are related by blood or marriage to the third degree.

That Law also prohibits appointment to the office of the Comptroller General of any person who is a relative of the Comptroller or the Deputy Comptroller, or of any other employee of the office, to the third degree of relationship by blood or marriage.

The Municipal Code, Law 7794 of April 30, 1998, Articles 16 and 23 of which stipulate the requirements of candidates to municipal office, provides for cases of conflict of interest. Accordingly, no one may be a candidate who has been disqualified by a judicial judgment from exercising public functions, or who, according to Article 88 of the electoral code (Annex 27) is prohibited as a public servant from participating in electoral activities, except to vote. These incompatibilities affect persons who have performed those positions within six months prior to election date.

It is also important to mention the provisions of Articles 18 and 24 of the municipal code (Annex 11), which established grounds for automatic cancellation of credentials for municipal mayors and councilors.

Finally, mention must be made of the prohibitions established for municipal mayors and councilors in the exercise of their duties. They may not intervene in voting on matters in which they or their relatives to the third degree have a direct interest, nor may they establish a relationship of dependency with the municipality by reason of another position, commission, work or contract that requires payment in their favor, or in general receive money or property from the municipality, with the exception of their salary and allowances, representation expenses, etc.

The Autonomous Regulations of the Ministry of Finance. Article 109 (Annex 12) establishes very specific prohibitions for employees of that Ministry.

The Organic Law of the Prosecutor General's Office, Law 6815 of September 27, 1982, defines a series of prohibitions for employees of that institution. Those prohibitions, contained in Article 28 (Annex 28) are the following: exercising advocacy as a profession, except in their own affairs and those of their immediate relatives to the second degree; directing congratulations or censure to the Supreme Powers, public entities and officials, for their acts; taking any active part in demonstrations and other public acts of a political or electoral nature.

All employees of the Prosecutor General's office are prohibited from performing any other public duty or employment.

Article 31 of that Law governs impediments and excuses for employees of the office.

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.

Revision of requirements for appointment (incompatibilities).

The appointment of senior officers and employees in public institutions is in each case the prerogative of the bodies empowered to do so, which are responsible for ensuring that the person appointed fulfills the specific requirements of the position, and that there is no incompatibility by reason of a candidate's personal, professional or political status. In the case of the Comptroller General's office, the procedures for recruiting, selecting and appointing its staff must comply with the constitutional requirements of suitability and institutional efficiency, as well as with applicable legal and regulatory rules.

Complaints of political partiality.

Article 102.5 of the Constitution empowers the Supreme Electoral Tribunal “to investigate on its own or through delegates and render decisions on any claims made by parties as to political partiality of State officials in the performance of their duties or about the political activities conducted by officials who are prohibited to engage in them. A verdict of guilty rendered by the Tribunal shall be compulsory grounds for removal and shall disqualify the wrongdoer to hold public offices for a term of no less than two years, without prejudice of any criminal liability that may be established.”

Individual complaints of violations of rules of conduct:

As indicated in the response to question 1.b in the first chapter of this questionnaire, the submission of complaints is a very important mechanism for enforcing rules of conduct.

The sanctions regime:

Costa Rican law contains various legal instruments to resolve conflicts of interest, including those in the penal code (Law 4573 of May 4, 1970), Articles 337 and 347 (Annex 17). That first article punishes any public official who proposes or appoints to public office a person who does not meet the legal requirements, while the second punishes the offense of "incompatible negotiations", when an official directly or indirectly has an interest in any contract or operation in which he is involved by reason of his position.

Costa Rican law also provides for civil and disciplinary sanctions for public employees, as described in the response to question b) of the preceding section.

With respect to disciplinary liability, and specifically to conflicts of interest, rules are established in the Law on Financial Administration and Public Budgets, Law 8131 of September 18, 2001, Article 110 of which (Annex 22) defines the situations that generate administrative liability.

Article 25 of the Illicit Enrichment Law (Annex 21) provides that any person who violates the rules of conduct established by law must be removed from his position, without prejudice to potential civil and penal liability.

The Administrative Contracting Law (Article 25) provides that violations of Articles 22 and 24 of that Law (Annex 19) entail the absolute nullity of the bid, the award or the contract, and establishes sanctions for the violator. Articles 95, 96, 97 and 98 (Annex 19) establish sanctions applicable to public employees who fail to comply with the prohibitions established by law, or who commit irregularities in the exercise of their duties.

The Law on the Public Ombudsman's Office, as noted above, establishes (Article 9, Annex 26) the prohibitions and incompatibilities applicable to the Ombudsman and to employees of that institution, and provides that violations of those incompatibilities and prohibitions by the public servants mentioned in that Article will constitute a grave offense and will be grounds for dismissal.

The Organic Law of the Comptroller General's Office provides that violations of the prohibitions defined in Article 48 (see Annex 2) will constitute a grave offense and will be grounds for dismissal.

Registry of disqualified persons:

For enforcing the mechanisms to prevent corruption in the civil service, there is a computerized system in which are recorded all persons disqualified for the exercise of public functions for various causes, and that registry is updated and is distributed upon request to the various institutions that form the Merit Regime.

This is a preventive mechanism, designed to detect any disqualification or other abnormality affecting a public servant because of acts of corruption or legal violations, in which case the senior human resources authority (General Directorate of the Civil Service) will deal with the cases presented in an individualized manner, seeking to obtain an outcome in favor of the administration in the recruitment and selection of public servants to fill positions in the public administration.

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

As noted above, the Civil Service Regime has a Registry of persons disqualified from the exercise of public functions for various causes.

- 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.*

It is important to mention again the draft Law on Corruption and Illicit Enrichment in the Public Service, which constitutes a legislative initiative designed, among other things, to avoid conflicts of interest.

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.*

Costa Rican law contains rules to ensure the conservation and proper use of resources entrusted to public officials in the performance of their functions. With respect to rules of conduct governing the use of public resources, the Law on Financial Administration and Public Budgets, the General Law on Internal Control, and the Organic Law of the Comptroller General's Office, among other laws, impose an obligation on all public servants to make efficient and effective use of public funds entrusted to their management.

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 ensure their proper management, so that the Minister of Finance may inform the Comptroller General on this matter.

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.

That Law establishes, as grounds for generating administrative liability, "omission, delay, negligence or imprudence in the conservation and safeguarding of public goods or rights or the fraudulent failure to protect them, regardless of any damage caused" (Article 110.b, Annex 22), as well as the use of public funds "over which the person exerts administration, custody or disposal, for purposes other than those intended by law, regulation or administrative act, even

when those purposes are also in the public interest or compatible with the purposes of the entity or organ in question. As well, officials authorized to adopt or implement corrective measures will be liable if they facilitate improper use because of a lack of reasonable and timely internal controls" (Article 110.e).

The assumptions that generate disciplinary liability also include "simulated or fraudulent acts in the administration, management and custody of public goods or funds" (Article 110.h), and "causing damage, wear or loss of properties held in custody by public servants whose powers permit or require them to hold such property and to be responsible for it" (Article 110.p).

The disciplinary regime for the above-mentioned violations is contained in Article 113 of that Law, and is independent of other forms of liability, such as civil, that are incurred when an agent deceitfully or negligently causes damage or injury to public goods or assets (see Article 114 ff of that Law), in which case the agent must pay for or replace the goods at his own cost.

The General Law on Internal Control, together with the Organic Law on the Comptroller General's Office, requires senior officials to manage public resources efficiently. For example: (a) it requires them to design, implement and improve controls to guarantee the efficiency and effectiveness of operations; (b) to protect and conserve public property against any loss, diversion, improper use, irregularity or illegal act; (c) to demand reliable and timely information; and (d) to enforce juridical and technical rules. All of the foregoing provisions are designed to guarantee legality and efficiency in the systems of control and management over public funds.

The law identifies those senior officials as the first line of defense against corruption, and requires them to have an internal audit office within their institution to oversee the management of public funds; an internal control unit that, under Costa Rican law, enjoys total operational independence, and full freedom to report and to coordinate with the appropriate internal or external bodies in investigating irregular acts involving those officials. These audit units are technically and functionally responsible to the office of the Comptroller General, as the senior body of the Control and Oversight System. In addition, some sectors have other, external control bodies (the office of the banking superintendent), with specific control and oversight powers, representing a system of interrelated bodies for controlling public funds that provides for internal and external control mechanisms for overseeing the use of public resources.

There are also specific regulations in certain areas, such as the use of official vehicles, which is governed by Title VII of the Law on Travel over Public Roads, Law 7331 of April 13, 1993. It provides for the correct use and conservation of official vehicles through a system of restricted classification of vehicles for discretionary use, and specific mention of senior public officials entitled to this type of vehicle (Article 225), the need to carry identification as property of the state or its institution, as well as a system of prohibitions and penalties against the abuse of this public good (Article 234 and 235, Annex 29). With respect to the use of state vehicles, the Regulations on the Use of State Vehicles, Number 19135 of July 15, 1989, also apply (Annex 30).

The Comptroller General's Office has issued a "Manual on Technical Standards of Internal Control Relating to the Use, Control and Maintenance of Vehicles" (published in the Official Gazette of February 2, 1996), which is binding on the entire public sector, as well as other rules and provisions requiring each administration to adopt regulations for the use, control and maintenance of vehicles.

Finally, it should be noted that the laws describing the obligations of public servants, cited in the response to question 1.a, impose a basic obligation on public servants to make proper use of the goods entrusted to them. Failure to do so invokes application of the disciplinary regime.

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.

Costa Rica has various mechanisms to promote the conservation and proper use of public resources by public servants. Following is a discussion of the macro mechanisms for achieving this objective, the correct application of which is what makes it possible to control the use of resources assigned to each public servant. It is the senior management of each entity that is responsible for ensuring proper use of all resources handled by the institution.

Budget:

The regulations governing the national budget constitute a very important mechanism for controlling the adequate and efficient use of public resources.

The ordinary budget consists of all likely revenues and all authorized expenditures of the public administration during the fiscal year, and represents a limit on the government's use and disposal of state resources. The budget is issued for one year, and the draft budget is prepared by a specialized department of the executive branch, which has the power to reduce or eliminate any item in the budget proposals submitted by government ministries, the legislative branch (Legislative Assembly, Comptroller General's Office, and Ombudsman's Office), the Supreme Court of Justice and the Supreme Elections Tribunal.

With adoption of the Law on Financial Administration and Public Budgets, the executive presents a copy of the draft budget law to the Comptroller General, on the date fixed in Article 178 of the Constitution, so that that oversight body can issue a technical report on the draft, which must then be sent to the Legislative Assembly no later than September 30, for analysis, debate and decision.

Article 184 (1) of the Constitution gives the Comptroller General's office the power to supervise execution and liquidation of the ordinary and extraordinary budgets of the Republic, to which end the office verifies that the Statement of Budget Outlays of the Central Government accurately reflects budgetary execution, confirms the appropriations (final and initial) shown in the statement, and conducts a quarterly audit of liquidations issued by the national accounting office.

Budgetary control also makes possible the rendering of accounts, consistent with Article 11 of the Constitution and Article 55 of Law 8131.

Accountability

The General Directorate of the National Budget, which is responsible according to Article 177 of the Constitution for preparing the budget, has in recent years encouraged efforts at sound economic and financial management, based on a program consistent with governmental and institutional priorities.

The constitutional amendment that added the second paragraph of Article 11, through the Law on Financial Administration and Public Budgets, specifies a system of accountability for the management of public funds.

Article 31.d of that Law establishes, as one of the objectives of the budget system, the monitoring of the financial results of institutional management, and the application of adjustments and corrective measures necessary to fulfill budgetary objectives and goals, and to make rational use of public funds.

Section IV (Article 52 and following) establish the process for evaluating the government's budgetary management, which is regulated as to the type and timing of reports by Executive Decree 30058-H-MP-PLAN and amendments thereto, pursuant to the Law on Financial Administration and Public Budgets.

Administrative contracting procedure:

The Constitution requires that contracts for the execution of public works signed by the branches of state, the municipalities and the autonomous institutions, the purchases made with the funds of those entities, and sales or leases of goods belonging to them must be done by tender, depending on the amount involved.

The Costa Rican system of administrative contracting is defined by law to ensure adequate use of public resources, and is regulated primarily by the Administrative Contracting Law. That procedure is governed by the principles of efficiency (Annex 19, Article 4) and the principle of publicity (Article 6). That law requires the state to use contracting procedures involving public bidding, restricted bidding, tendering by registration, and auctioning. The type of bidding depends on the amount of the contract and the type of goods, but in all cases is governed by the same prohibitions, with a procedure that protects the transparency of state contracting (Articles 41 to 48). This legislation transfers to each ministry the operational functions formerly performed by the National Supply Office, in a move to strengthen the process of operational deconcentration of administrative contracting procedures.

Administrative contracting procedures are now conducted entirely by the institutional supply offices, pursuant to Article 106 of the Law on Financial Administration and Public Budgets.

In addition, the government has a tool known as “*Comprared*”, an electronic system of government purchasing, whereby purchasing institutions post their requirements for goods, works and services on the Internet, where suppliers and contractors can consult them without leaving their office. This reduces costs for businesses and therefore improves the conditions of contracting. Moreover, bidders can submit their offers by the same mechanism, and subsequently monitor the entire process through to completion (Annex 42).

The Comptroller General's Office as the financial oversight body:

The Comptroller's office designs and implements a series of rules that are binding on the administration. The internal audit office of each institution, the external control bodies and the Comptroller's office itself are responsible for overseeing the management of public resources.

The comprehensive oversight exercised by the Comptroller General's office in combating corruption and ensuring the normal conduct of government is based on three broad procedures: Operational Audit and Evaluation, Institutional Development, and Legal Advisory and Management Services, functions that are performed by three specific divisions of the office (Annex 43).

Ministry of Finance:

For the sake of governmental transparency, the Ministry of Finance has made major efforts to implement computerized systems for increasing fiscal revenues, reducing bureaucracy, diminishing operating costs, improving integration with entities of the Central Government, automating procedures to eliminate unnecessary or cumbersome tasks, giving its employees more access to information, improving the quality of services, saving time and costs for users in their dealings with the Ministry, and improving access to public information. An important feature here is the introduction of electronic government, whereby information on the functions of each institution will be publicly available through web pages.

Identification, registration and control of properties:

Costa Rica has two regulations governing the registration and control of state property. Executive Decree 2487-H of August 23, 1972 establishes procedures for registering property transactions, prescribes permanent inventory systems, determines responsibilities for the administration of national property, designs forms and procedures, and specifies the classification of those properties and other matters (Annex 34). The Regulations Governing the Registration and Control of Central Government Properties, No. 30720 of August 26, 2002, regulate the identification and registration of properties, and the donation, lending and disposal of properties (Annex 35).

- 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 statistics on results.

- 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.*

Costa Rica has standards and mechanisms for giving effect to the provisions of Article III (1 and 2) of the Convention.

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

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

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 24).

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 37).

Article 27 of the Law on the Ombudsman's Office (Annex 26) requires that institution to report to the Attorney General's office when it learns of criminal conduct or deeds.

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 9).

From the legal perspective, then, all public servants have the inherent obligation to report irregular deeds or situations of which they become aware through their function, to the appropriate body (penal, civil and administrative). Public service auditors and other supervisors are also bound by this rule.

In the specific case of internal audit offices, the General Law on Internal Control establishes a thorough mechanism of reporting and coordination within and beyond the institution that they must use when their audits find officials responsible for irregular acts. Those audit units have broad scope within which to conduct their oversight (Article 21 of the General Law on Internal Control, Annex 3).

The Comptroller General's office, through its various means of budgetary control, contracting, and audits and special studies, conducts direct reviews and when it finds anomalies it processes them or forwards them to the appropriate bodies.

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.

Reporting channels that can be used by individuals:

The Costa Rican system gives individuals the possibility of reporting public officials for acts of corruption, to the Public Ethics Prosecutor, the Public Ombudsman, the Comptroller General, and in the case of criminal behavior, directly to the Attorney General's office.

These provisions have been strengthened by Article 6 of the General Law on Internal Control, which requires the Comptroller General's office, the administration and internal audit offices to protect the identity of "whistleblowers", whether they are public officials or not.

Stability of employment

One aspect that facilitates the reporting by public employees of corrupt acts is the fact that public employees in Costa Rica enjoy a high degree of employment security, which means that fear of losing their job is not an obstacle to reporting.

Criminal penalties:

Finally, there are general preventive provisions such as Article 332 of the penal code, which makes "dereliction of duty" a crime applicable to any public servant who has the duty to report but does not do so.

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

The results obtained in 2002 by the Comptroller General office with respect to requests and complaints received are shown in the table in Annex 44.

- 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.*

Costa Rica has standards and mechanisms for giving effect to the provisions of Article III (1 and 2) of the Convention.

CHAPTER TWO

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

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

According to Article 193 of the Constitution (see Annex 1) the President of the Republic, the Cabinet Ministers and the officials who manage public funds are required to declare their property, which must be duly appraised in accordance with the law. With the promulgation of the Law on Illicit Enrichment of Public Servants, Law 6872 of June 17, 1993, and its Regulations (see Annexes 21 and 37), Costa Rica now has a much broader system for declaring income, assets and liabilities for specified persons holding public office, covering about 3900 individuals.

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 regulations to that Law, found in Executive Decree 24885-MP of December 4, 1995 (Annex 37), determines the public officials who are required to make that declaration. That list is not exclusive, which means that if it is determined that there are officials within a public institution who by the nature of their duties should present a declaration of assets, the institution will be duly advised by the oversight body to include those officials in the appropriate registries.

The initial 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, according to Article 12, 13, 14 and 15 of the Law (Annex 21). If the Comptroller's office determines that an official required to submit a declaration did not do so within the legal time limit, that official will be given a warning, and a new deadline within which to comply. If the official does not comply, or is late in complying, a report will be prepared, covering the main facts, the rule violated, and the names, positions and address or place of notification of the persons responsible, and will be sent to the Legal Advisory and Management Division of the Comptroller General Office, for the opening of administrative proceedings to determine civil and administrative sanctions.

It is interesting to note that all the reports prepared so far have had to do with failure to present the declaration, or late presentation, and not with the contents of the declaration.

The declaration must contain information on the official's assets, income, rights and obligations within the country and abroad, with the specifications required by law (Annex 21, 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 (Annex 21) 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.

The Regulations to the Law on Illicit Enrichment and the Law itself refer to the criteria that must be used for evaluating the declarations, according to Article 14 of the Law (see Annex 21) and Article 24 of the regulations (Annex 37).

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). Thus, a public servant who fails to submit an initial or annual declaration as required by law is liable, subject to due process, to sanctions that may include dismissal.

The Comptroller General's office may also conduct inspections to determine whether an official has engaged in illicit enrichment in the course of his functions. Such inspections are normally conducted on a preselected sample of public servants. Persons found to be in this situation may, after due process, be liable to sanctions, up to four years' imprisonment (Article 27, Annex 21).

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

According to records of the Authorizations and Approval Unit of the Institutional Development Division of the Comptroller General's Office, there were 624 initial declarations, 297 final declarations, and 2808 annual declarations submitted in 2001, for a total of 3729 declarations. Of these various kinds of declarations, 94, 120 and 40, respectively, were audited, for a total of 254 audits, resulting in the preparation of 4 official reports. In 2002, there were 779 initial declarations, 539 final declarations, and 2711 annual declarations, for a total of 4029 declarations. Of those, 82, 82 and 146, respectively, were audited, for a total of 310 audits, resulting in 4 official reports. Finally, in 2003, there were 660 initial declarations, 371 final declarations, and 2915 annual declarations, for a total of 3946 declarations. Of these, 43, 161 and 164 were audited, for a total of 368 audits, and 6 official reports were prepared.

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.

Costa Rica has standards and mechanisms for giving effect to the provisions of Article III (4) of the Convention.

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

Costa Rica has various oversight bodies that, among their ordinary functions, work to enforce the provisions of sections 1, 2, 4 and 11 of Article III of the Convention.

1. Office of the Comptroller General:

In accordance with its constitutional and legal attributes, the Comptroller General's office works in a manner complementary to the oversight function of the Legislative Assembly to ensure that public funds are managed in a manner consistent with existing legislation.

Apart from the constitutional provisions for control, Costa Rica has a solid body of legislation, based on five laws: the Organic Law of the Comptroller General's Office (Law 7428 of September 7, 1994); the Law on Illicit Enrichment of Public Servants (Law 6872 of June 17, 1983); the Law on Administrative Contracting (Law 7494 of April 24, 1994); the Law on Financial Administration and Public Budgets (Law 8131 of September 18, 2001) and the General Law on Internal Control (Law 8292 of August 27, 2002).

These laws give broad powers to the oversight body to issue provisions, rules, policies and directives (which it has done abundantly) that are binding on all entities subject to its supervision, and take precedence over any other, conflicting provisions, without prejudice to the instructions and orders necessary to the proper conduct of its control and supervisory functions (see Annex 2, Article 12), and the technical rules governing internal audits, and general rules of internal control that must be adopted by entities subject to its supervision (see Annex 3, Article 3).

The Law on Financial Administration and Public Budgets has an entire section (Title X) devoted to the different types of liability and sanctions for violation of the rules contained in its Articles 107 to 121 (Annex 22), while the General Law on Internal Control protects the identity of "whistleblowers" or persons who report irregularities relating to the public finances (Annex 3, Article 6), and its Chapter V establishes a comprehensive system of liabilities and sanctions for senior officials and department heads who failed to fulfill their internal control duties, whether through act or omission.

The main supervisory and oversight powers of the Comptroller General's office for combating corruption are listed in Annex 46.

There are also a number of laws relating to the oversight of specific public funds, financial administration, administrative contracting, public budgets, sworn declarations of assets of public officials, government contributions to political parties, and other issues, which constitute the legal basis of another set of functions and tasks specifically assigned to the Comptroller General's office.

2. Public Ombudsman's office:

The office of the Public Ombudsman is an oversight body that is part of the legislative branch. The purpose of that institution is to ensure that public sector activity is consistent with the legal and moral order, and that the rights and interests of the citizens will be thereby protected. Although it falls under the legislative branch, the office enjoys functional, administrative and political independence. It is not subject to the dictates of other bodies in the exercise of its functions but, consistent with the democratic rule of law, it is subject to oversight by other organizations such as the Comptroller General's office and the courts, each within their area of competence.

The Ombudsman's office conducts its work by issuing informal reports, on the basis of summary and informal investigations. The investigation applies only to entities of the public sector. The final report may make recommendations to the entity in question, as a means of protecting the rights and interests of the citizens.

The Ombudsman's office constitutes a guarantee for the protection of citizens' rights and interests and the proper functioning of the public sector, in accordance with existing legislation and the highest ethical principles that must govern the public function. For the purpose of overseeing public sector activity in the context of the Costa Rican State's duty to respect and promote economic and social rights, the Administrative Management Control Department has been established to protect the right to legality and to process any matter relating to acts of political persecution; corruption in the public service (illegality, irregular conduct); corruption in the administration of public funds; the improper use of public assets by public officials; inadequate management of public documentation and administrative irregularities with respect to bidding, permits and concessions in entities other than local governments.

3. The Public Ethics Prosecutor's Office:

The Office of the Public Ethics Prosecutor (Annex 28) is a section of the Office of the Prosecutor General, responsible under Article 3.h of the Organic Law for taking administrative action as necessary to prevent, detect and eradicate corruption and to raise ethical standards and transparency in the public service, without prejudice to the powers of the Comptroller General's office, as well as to denounce and prosecute public officials and private individuals suspected of illicit acts in or relating to the exercise of their duties, in areas that fall under the penal jurisdiction of finance and the public service. In the case of private individuals, the prosecutor's office has competence only when they administer public assets or funds, receive benefits, subsidies or incentives from public funds, or participate in any way in an offense committed by public officials. The foregoing is without prejudice to their duty to report such deeds and conduct to the appropriate administrative oversight bodies.

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

The results obtained have already been mentioned in other sections (see Annexes 39, 40 and 44).

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.*

Article 142 of the Municipal Code creates a national system of training for municipal officials so that they can help to foster greater citizen participation.

- 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). The draft bill is called, "Law to Promote Citizen Participation in Civil Society Organizations", bill 14708.

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? If 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 1).

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.

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 7).

The Costa Rican government has made available to the public a great number of Internet pages where information can be readily obtained. These include: casapres.go.cr; mag.go.cr; minae.go.cr; micit.go.cr; comex.go.cr; mcjdcr.go.cr; meic.go.cr; mep.go.cr; hacienda.go.cr; mopt.go.cr;

mideplan.go.cr; rree.go.cr; netsalud.sa.cr; msp.go.cr; asamblea.racsa.co.cr; pgr.go.cr; cgr.go.cr; imprenal.go.cr; dhr.go.cr.

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

Results relating to public access to the web page “hacienda.go.cr” are shown in Annex 47.

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.*

Office of Popular Initiative:

The Legislative Assembly created the Office of Popular Initiative on April 13, 1999, to provide greater opportunity for citizen participation in the Legislature's work. This office seeks to facilitate and promote better communication between the public and the Legislative Assembly, and it is authorized to provide immediate information on the status of draft bills, the legislative agenda, legislation approved, the membership of permanent and special committees, as well as the programming of legislative sessions, minutes of plenary and committee sessions, and in general any information available on the Legislative Assembly's local network. This information can be provided by telephone, through a toll-free line (800-674-6466), by e-mail, or in person, in which case the user is asked to bring a diskette to record the information. The intent is to create a single, institutionalized channel for providing information on the day-to-day activities of the Assembly, for use by public institutions and the general public.

This office also accepts suggestions, proposals and draft bills submitted by any citizen (including minors). Such initiatives are summarized every two weeks and posted electronically to the attention of Deputies and their advisers so that, if the proposals are interesting, they can be

processed and put on the agenda. When a citizen initiative is processed in this way, the person submitting it is immediately informed.

This office has been organizing "citizen participation days" to publicize its functions and services, and to help improve the image of the legislative branch. A chat system has also been implemented, whereby citizens can engage in remote dialogue with the Deputies, present their concerns and opinions on topics of interest, and hear the thoughts of their elected representatives.

National Directorate for Community Development:

The National Directorate for Community Development is one of the mechanisms for facilitating and promoting community participation in public management, since 1967 (Annex 50).

Referendum:

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.*

Office of Popular Initiative:

Since its creation, this office has received 349 legislative proposals. Of these, 31 initiatives have been converted into draft laws, three are now the law of the land, and one is in the final legislative stage. Although up-to-date information on that office's results is available, only data for the period 1999-2003 are available in table and graphic format: those data have been published on the web page, www.asamblea.racsa.go.cr (See Annex49).

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:

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 23721 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.*

As noted earlier, there are no statistical data on the results from applying the above participatory mechanism for monitoring public management.

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 (Annex 45), and the Treaty of Extradition and Criminal Legal Assistance with Mexico, Law 7469 of December 20, 1994 (Annex 36) under which requests for legal assistance involving acts of public corruption may be submitted. There is also the Inter-American Convention on Letters Rogatory, Law 6165 of December 2, 1997, which may be applicable.

In addition, judicial assistance required for purposes of the Convention may be provided pursuant to Articles 705, 706, 707 and 708 of the code of civil procedures.

- 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.*

The information requested is not available.

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

Costa Rica participates in the Central American Integration System (SICA), for the purpose of standardizing rules for the preparation of judicial assistance requests.

- 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).*

This information is not available.

- 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 shortly be advising the OAS Secretariat of such an appointment.

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.*

This information is not available.

- 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.*

This information is not available.

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. _____

()Ms. _____

Title/position: _____

Agency/office: _____

Mailing address: _____

Telephone number: _____

Fax number: _____

E-mail address: _____