

Report on the implementation in Argentina of the IACC s provisions, selected for review in the Third Round, and on follow-up to the recommendations formulated to that country in the First and Second Rounds.

**Executive Summary
May 2009**

In order to develop the Civil Society´s Report for the Third Round of Follow-up Mechanism of the Inter-American Convention against Corruption (IACC), Poder Ciudadano requested interviews with various officials of different agencies, as well as, made several requests for public information.

The following are the main highlights of the Report prepared by Poder Ciudadano in relation to its different sections.

With respect to **transnational bribery**, one of the provisions of the IACC selected in the Third Round, although Article 258 bis of the Penal Code in Argentina categorizes it as a crime, there is only one foreign bribery case in the country currently in progress.

In the second section, which includes the follow-up of the Recommendations formulated in the previous rounds there are several points to highlight. In relation to the **Standards of Conduct** in Argentina, the Public Ethics Law (25,188) is only applicable in the Executive Branch, and there are no progresses identified on the implementation of standards of conduct and conflicts of interest in the Judiciary and the Legislative Branch. Among the advances, the Oficina Anticorrupción has designed a system for distance training of public officials on the rules of conduct, including rules on conflicts of interest.

In order to strengthen the **internal and external audit systems** and ensure an effective system of control on the spending of public funds, as recommended by the Committee of Experts, there are numerous bills submitted in favor but have not been discussed by the Congress.

Faced with this situation, the Civil Society have made recommendations to the Auditoria General de la Nacion and the Sindicatura General de la Nación in line with the Committee´s recommendations.

An important progress regarding the advertising of the reports developed by the oversight bodies was the reaction of legislators, media and civil society organizations against an attempt done by government representatives in the Auditoria General de la Nación to prevent the dissemination of the reports developed by the body. As a result, the Colegio de Auditores´s meetings have to be public, as well as the records produced in those meetings.

The lack of political will by the parliamentary majority to advance in the treatment of the projects is a clear impediment to pursuing the implementation of the recommendations of the Committee of Experts.

Related to the **training of public officials** on the existence and purpose of the responsibility to report acts of corruption , the Oficina Anticorrupción has designed an e-learning system, which may be considered as a progress in the implementation of this recommendation.

In terms of **institutional cooperation**, the report states that there is not a public policy related to this issue, on the contrary, it depends on the authorities of each agency.

Nonetheless, there are different ways of cooperation and coordination between the Auditoria General de la Nación and other oversight bodies (Fiscalia de Investigaciones Administrativas, Sindicatura General de la Nación and the Oficina Anticorrupción).

Moreover, a Permanent Forum of Fiscalias de Investigacions and Oficinas Anticorrupción was created to exchange experience and information aimed at improving anti-corruption policies.

Decree 1172/03 regulates the process of developing participatory mechanisms to elaborate norms. While it is a great achievement for public participation in making decisions, implementing these regulations has not been set. The Application Authority Decree 1172/03 is the Subsecretaria para la Reforma Institucional y el Fortalecimiento de la Democracia.

With regard to technical cooperation among States, since the progress report submitted by the Argentine Government for the Eleventh Meeting of the Committee of Experts held in June 2007, numerous technical cooperation activities with the OAS, the UN were developed, the creation and participation in International Association of Anti-Corruption Authorities, OECD, FATF and GAFISUD.

With reference to the **systems for procuring goods and services** by the State, the Oficina Nacional de Contrataciones has begun using a system of electronic contracts. This system is just beginning to be implemented and is limited to the procurement of goods and services from agencies of the National Administration, in those purchases which the price does not exceed \$10,000 (US\$ 3.000).

Regarding the recommendations on **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 in Argentina, the Director of Programa Nacional de Protección de Testigos e Imputados informed only about the existence of this Program.

As reported by the Centro para Implementación de Políticas Públicas para la Equidad y el Crecimiento (CIPPEC), about the **Systems for registering income, assets and liabilities**, the Comisión Nacional de Ética Pública has still not been created, and no modifications on the legal system and regulatory framework for the implementation of appropriate mechanisms for systems affidavits have been developed.

The Public Ethics Law is being implemented in the Executive Branch, by the Anticorruption Office. Some advances have been done in the Judiciary in recent years. Resolution 734/07 made available to all citizens the access to the public annexes of affidavits of all officials and judges, nevertheless the citizens have to express their reasons to do the requests. On the other hand, the Legislative Branch published on its website a list of National Deputies who submitted their affidavits in 2007. However, it is important to mention that not all of them have done so.

In both the Judiciary and the Legislature the implementation of the system which allows the analysis of information of the affidavits published, to identify possible cases of unjust enrichment or conflict of interest hasn't still been implemented.

Related to **Access to information**, CIPPEC identified as progresses: the creation of the Single Record of Meetings of public officials (lobby), the production of statistics about the number of requests and the number of responses, the profiles of applicants, and the agreement signed between the Subsecretaria para la Reforma Institucional y Fortalecimiento de la Democracia and the Instituto Federal de Acceso a la Información in Mexico to work on the implementation of an electronic system for processing information, between others.

Finally, it is important to mention the Rules of Procedure for the Handling of Complaints for Violation of the obligations under the General Regulation of Access to Public Information for the Executive Branch, which establishes that claims must be submitted to the Oficina Anticorrupcion, after which they are solved by the Subsecretaria para la Reforma Institucional y el Fortalecimiento de la Democracia. Beyond the progresses made by the implementation of Decree 1172/03, the country still owes the sanction of a National Law on Access to Public Information that can be applied in different branches.

There is a number of recommendations whose implementation by the Republic of Argentina could not be assessed due to the inability to realize the interviews with public officials and because of the lack of response to requests for public information made by Poder Ciudadano.