THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY NIGERIA

ARTICLE 11 UNCAC

JUDICIAL AND PROSECUTORIAL INTEGRITY

NIGERIA (FOURTH MEETING)

NIGERIA'S IMPLEMENTATION OF ARTICLE 11 AND 13 OF CHAPTER 11 OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

BACKGROUND

Nigeria signed the UNCAC on the 9th of December 2003 and ratified on the 24th of October 2004. Prior to the coming into force of the UNCAC, Nigeria has through both legislative and administrative measures taken steps to implement many of the initiatives contained in the UNCAC and other regional instruments with a view to ensuring transparency and accountability and strengthening the National Integrity System.

Article 11- Measures Relating to Judiciary and Prosecution Services

Nigeria has substantially implemented Article 11 as it relates to the integrity of the Judiciary. The Judiciary is an independent arm of the Government with its autonomy enshrined in the Constitution. There are a number of measures in place to safeguard this independence.

Appointment Process: High ranking judicial officers such as the Chief Justice of the Federation and Justices of the Supreme, Chief Judge of the Court of Appeal and Judges of the Court Appeal are appointed by the President on the advice of the National Judicial Council (NJC). The appointment is subject to ratification by the Senate. It is also the practice to consult with the Nigerian Bar Association in the course of such
APPENDIX 1

MEASURES TAKEN BY THE EFCC TO ENHANCE THE INTEGRITY OF ITS PROSECUTORS.

Establishment of Internal Affairs Department

The Economic and Financial Crimes Commission has set up an integrity department known as the Department of Internal Affairs which has the responsibilities inter alia, of conducting investigations and monitoring the integrity, conduct and performance of all officers of the Commission including the Prosecutors in order to check corruption and inaptitude. The Department also conducts background checks on applicants before they are employed in the Commission.

The Internal Affairs Department is also working on a mechanism and procedure for constantly monitoring the lifestyle of the Commission’s prosecutors and other officers in order to prevent and track corrupt practices.

Recruitment measures

In addition to other requirements, applicants for employment as prosecutors in the Commission are required to attach to their applications letters of recommendation from Judges before whom they had appeared and handled cases attesting to their competence and integrity.
Monitoring of Prosecutors’ conduct in the courts

The management of the Commission has also established an informal mechanism of getting feedback from the courts on the conduct of its prosecutors.

Prosecution Manual

The Commission has also developed a prosecution manual that guides its prosecutors in the handling of their cases. The prosecution manual has provisions aimed at promoting effective case management, fast tracking cases and enhancing performance. The provisions also act as checks and balances or controls of the conduct and activities of the prosecutors.

Monitoring of external solicitors

When cases are assigned to external counsel to prosecute on behalf of the Commission, the Commission attaches its in-house prosecutors to appear with them and report back to it on the conduct of the cases by them. This is way of checking and monitoring the external solicitors to prevent compromise of the cases. The Commission also ensures that cases are assigned only to external solicitors with proven integrity and competence.

Special allowance to Prosecutors

Furthermore, in addition to the regular remuneration of prosecutors, they are also paid a special allowance known as ‘robe allowance’ which is a great incentive to shun overtures for compromise of cases.

MEASURES TAKEN BY ICPC TO ENHANCE PROSECUTORIAL INTEGRITY

a) The ICPC’s prosecutorial independence is granted in section 26(2) of the Establishment Act 2000. Every prosecution of any offence under the said law shall be deemed to be initiated by the Attorney General of the Federation. This is ‘The deemed consent rule’ adopted and approved by the Supreme Court in Attorney General Ondo State v Attorney General of the Federation & 35 Ors (2002) 6 S.C (Pt 1).

b) Codes and disciplinary mechanisms applicable to members of the judiciary and prosecution service: Prosecutors and judicial officers are required to report corrupt
appointments. This practice substantially reduces the possibility of persons of ill repute being appointed to such offices.

The due-diligence enshrined in this process cascades down to the appointment of lower ranking judicial officers at both the national and sub-national levels.

**Financial Autonomy:** The Judiciary in Nigeria enjoys financial autonomy from the Executive. The funding of the Judiciary is appropriated by the Legislature based on budgetary proposals submitted by them without reference to the Executive. The appropriation is made as a First line charge on the accrued revenue in the Federation Account prior to other statutory deductions.

**Security of Tenure:** Judicial officers can only be removed from office by the President or Governor on the advice of the National Judicial Council. In respect of the Category of Judicial officers whose appointments are ratified by the Senate or State Houses of Assembly (The Chief Justice of the Federation and Justices of the Supreme Court, President of the Court of Appeal, Chief Judges of States, Chief Judge of the Federal High Court etc.) such removal must be ratified by two third majority of the members of the Senate or State House of Assembly as the case may be.

**Code of Conduct for Judicial Officers:** The Nigerian Judiciary has adopted a Code of Conduct for Judicial Officers modelled on the Bangalore Principles of Judicial Conduct. This Code is instituted and administered by the National Judicial Council (NJC) which monitors and sanctions non-compliance. It can be accessed at [www.nigeria-law.org/CodeOfConductForJudicialOfficers.htm](http://www.nigeria-law.org/CodeOfConductForJudicialOfficers.htm). In addition, Judicial Officers are also subject to the Code of Conduct for Public Officers administered by the Code of Conduct Bureau.

**Integrity of Prosecutors:** Prosecutors have not adopted a special Code of Conduct. However, they are subject to the Code of Conduct for Public Officers. In addition, the two major anti-corruption agencies who prosecute offences- The Economic and Financial Crimes Commission-EFCC and the Independent Corrupt Practices and Other related Offences Commission-ICPC have developed some internal measures to ensure the integrity of their prosecutors. See Appendix 1

**The National Judicial Council (NJC)**

The NJC is a dedicated institution set up under the Constitution with the key mandate of ensuring the integrity of the Judiciary. It is made up of the Chief Justice of the Federation as the Chairman and other high ranking judicial officers as well as members of the Nigerian Bar Association. It has the mandate to advise the President and the Governors
on appointment, discipline and sanction of judicial officers. The body also deals with broad policy issues for the Judiciary such as Codes of Conduct and related integrity issues. There are numerous instances of disciplinary measures against judicial officers. See the following links for some recent cases. 
http://www.leadership.ng/nga/articles/50493/2013/03/20/pension_case_justice_talba_appears_njc.html
http://www.vanguardngr.com/2013/02/jonathan-sacks-justice-archibong/

Training and Capacity Building for Judicial officers: There is a dedicated institution- The National Judicial Institute (NJI) which has the mandate of training and Continuing Education for Judicial officers. Their curriculum is constantly updated to take cognizance of emerging and developing issues to enhance their capacities to adjudicate on such issues. The anti-corruption agencies, in conjunction with the UNODC and the NJI regularly hold capacity building sessions for judicial officers on corruption related issues.
offers in line with Section 23 of the Corrupt Practices and other related offences Act, 2000.

Judges are bound by the Code of Conduct for Judicial Officers. Investigators and Prosecutors of the ICPC are subject to the Code of Conduct for Public Servants under the Nigerian Constitution, the Public Service Rules and the ICPC Investigators and Prosecutors Code of Conduct.

c) Measures taken to ensure transparency and accountability in the selection, recruitment, training, performance and removal of the members of judiciary and prosecution service: Measures to improve the transparency of procedures governing case assignment and distribution. The selection, recruitment, training performance and removal processes in the ICPC are subject to strict due process rules and compliance procedures. To ensure transparency the Commission invites other stake holders to monitor the process. ICPC has a policy of not assigning cases originating from a geographical area (state) of the nation to officers including prosecutors from that particular area. Where officers are assigned cases in which they have interest, they are required to declare such interest.

d) Policies aimed at increasing transparency in the court process: The ICPC has been having round table discussion with designated anti-corruption judges on improving and speeding the trial process of corruption cases. However the NJC has over the years been involved with the UNODC in the ‘Strengthening of Judicial Integrity’ Program with other stakeholders like the National Judicial Institute, the Anti-corruption Agencies, Ministry of Justice, and the Police etc.

**Examples of successful domestic measures adopted to comply with article 11.**

a) The establishment of the NJC has given much independence to the judiciary. The NJC in discharging its constitutional functions has enhanced the performance of judges through better remuneration, strict appointment procures and removal of judges indicted for corrupt practices or other grave misconducts. In February 2013, some judges were so removed for alleged judicial misconducts.

b) *Cases which breach prosecutorial code of conduct and led to application of disciplinary measures:* The ICPC periodically conducts internal screening of its staff. Such inquiries led to the removal from its service certain investigators and prosecutors for receipt of gratification and other offences.
(c) Examples of effective use of mechanisms to facilitate the reporting acts of corruption in the judiciary and prosecution service and statistics regarding number of complaints received through such mechanism: The ICPC has established Anti-Corruption Units in all Ministries, Departments and Agencies (MDAs) including the Judiciary and they provide information on corrupt activities to the Commission. The ICPC received a total of 593 petitions in 2012. The ICPC has also used the powers provided by section 6(b) of the Act to study systems and processes in government and public services perceived to be either corrupt or offer potential opportunities for corruption. In 2012, the study and suggested reviews of the pension system of Nigeria found over N 34 Billion Naira as unpaid and available. This was disbursed to the over 200,000 workers’ RSA accounts. Also after studying the Personnel Cost regime in Nigeria, the Commission issued a directive to all MDAs to refund all unspent balance in the personnel vote thereby closing opportunities for stealing unspent and related public funds.

d) The successful implementation of reforms regarding case assignment and case management resulting in reduction in waiting times the hearing and completion of cases: ICPC inaugurated a Vetting Committee to ensure that only criminal matters with prima facie case to answer are filed thereby, reducing waste of time in the filing of charges, enhancing the integrity and efficiency of the prosecutorial process, and ensuring that reasonably substantiated cases are filed to avoid striking out cases by the court for lack of merit.

e) Successful implementation of educational and training programmes for members of the judiciary and prosecution service: The judiciary enjoys continuous education and refresher courses at the National Judicial Institute Abuja. ICPC prosecutors take periodic courses and training programs sponsored by the Commission, the DFID, and the US Department of Justice on advocacy, trial techniques and procedure, evidence, etc. ICPC Prosecutors also participate in the International prosecutors’ conference to share prosecutorial techniques and experiences with colleagues from other jurisdictions of the world.

Have you ever assessed the effectiveness of the measures adopted to implement article 11? Evaluate the overall integrity and effectiveness of the court system. Surveys were conducted in 2002 and 2005 on the court system and judicial administration. Based on the experience of the ICPC the courts are undergoing a
process of reform on criminal procedure to enhance their effectiveness through the consistent oversight activities of the National Judicial Institute.

**Which challenges are you facing in (fully) implementing the article 11 of the convention?**

Delays in court trial process, delays in assignment of matters by the Chief Judge to appropriate designated court, lack of investigators and prosecutors to cover all states and local councils to deal speedily with corruption cases as they are being reported etc.

**Do you consider any technical assistance required?**

Yes.
Capacity building to tackle specialized problems and areas such as forensic fraud investigation; procurement of special forensic infrastructure; and equipment to investigate forensic corruption related matters.