

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED

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ARTICLE 6 UNCAC

PREVENTIVE ANTI-CORRUPTION BODY OR BODIES

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1. Information requested from States parties in relation to mandates of anticorruption body or bodies in respect of prevention

The Anti-Corruption Commission (ACC) which was established by an Act of Parliament in 2000 takes the lead in the fight against corruption in Sierra Leone. The object for which the commission was established is to take all steps as may be necessary for the prevention, eradication or suppression of corruption and corrupt practices.

The commission functions among others to:

- Detect or investigate any act of corruption
- receive and examine and retain all declarations of assets required to be filed with it under the Act of 2008
- Examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices or acts of corruption and to secure revision of those procedures to reduce or eliminate the occurrence of corrupt practices.
- Undertake studies and assist in research in order to identify the causes of corruption and its consequences on the social and economic structures of Sierra Leone.
- Monitor in such manner as it considers appropriate the implementation of any contract awarded by a public body with a view to ensuring that no irregularity or impropriety is involved therein
- Monitor legislative and administrative practices in the fight against corruption and to advise government on the adoption and ratification of international instrument relating to corruption
- Educate the public on the dangers of corruption and the benefits of its eradication and to enlist and foster public support combating corruption
- Cooperate and collaborate with foreign governments, local, regional and international institutions agencies and organizations in the fight against corruption

- Investigate the extent of liability for the loss of or damage to any public property and to institute civil proceedings against any person for the recovery of such property or for compensation

The 2000 Anti-corruption Act was amended in 2008 to expand the scope of corruption offences, providing protection for whistle blowers, and making it mandatory for all civil servants to declare their assets. The strengthening of the ACC was followed by a number of measures aimed at reforming and strengthening other integrity institutions of the state that ensure transparency and accountability. These include the Audit Service Sierra Leone (ASSL), the National Public Procurement Authority (NPPA), and the Public Accounts committee of parliament (PAC), the district budget oversight committees, the public expenditure tracking surveys (PETS), and the office of the Ombudsman. The government revised the anti-money laundering act in 2011.

The key document setting out the Government's anti-corruption policy is the **National Anti-Corruption Strategy (NACS)**. Section 5(1) (c) of the Anti-Corruption Act of 2008 vests in the Commissioner the power to “*coordinate the implementation of the National Anti-Corruption Strategy.*” The responsibility to implement the NACS rests with Government ministries, departments and agencies.

Since 2000, the country has implemented two National Anti-corruption Strategies (2005 - 2008 and 2008-13) in demonstration of the Government and people of Sierra Leone’s resolve to confront the scourge of corruption from an integrated and a well-coordinated approach.

The NACS Secretariat serves as the implementing coordinating unit providing support to and facilitating scheduled reviews of the strategy. The objectives of the NACS include:

- a) To improve the delivery of social services in terms of quality, quantity and process,
- b) To promote a public service that is effective in preventing and confronting without compromising peace and security
- c) Playing a leading role in providing an environment for citizens to curb corruption.

The strategy is monitored through the use of a coalition of Civil Society organizations - the civil society Monitoring Groups (CSMGs). Their involvement in the monitoring process is to provide an independent opinion on the implementation of the strategy.

The result of these systems and largely structural approach to the fight against corruption highlights varying successes and challenges in addressing the key corruption issues that should enhance the delivery of the much needed social services by the public sector.

Implementation of the NACS heralded greater public sector awareness and willingness to address entity-specific anti-graft measures. Through established structures like the NACS Integrity Management Committees (IMCs), an attempt to mainstream anti-corruption initiatives at both the centre and local government levels is gradually gaining momentum. Almost over 80% of MDAS and 100% of local councils now have IMCs with a mandate to ‘*provide a supportive environment to ensure that the recommended actions in the NACS relevant to the entity are addressed within the stipulated time.*’

Focal persons are appointed in all of the IMCs whose responsibility it is for the coordination of the implementation of the Strategy as is relevant for their respective entity. They lead the implementation, coordinate sensitization activities in-house and, prepare updates and implement the work plan with the support of the IMCs.

The establishment of a network of civil society organizations that provide quarterly interval monitoring within the framework of the strategy implementation mechanism has helped in support of government's direct policy of strengthening the accountability regime within the overall government structure to combat corruption. A culture of addressing corruption is gradually being nurtured.

The implementation of the 2008 –2013 NACS ended in December of 2013; however the Strategy was beset with the following challenges:

- It was focused more on the public sector with no adequate provision for private sector corruption
- Issues of financial and economic crimes were not built into the strategy
- Lack of ownership, as MDAs were questioning where to obtain the resources to implement the corruption control measures
- Unrealistic planning, inadequate prioritization of reforms, insufficient involvement of non-state actors; and the lack of adequate coordination and monitoring.

The 3rd Generation National Anti-Corruption Strategy runs from 2014 – 2018 and addresses the above mentioned challenges and other emerging issues. The new **National Anti-Corruption Strategy (2014-2018)** reflects priorities of the government and is built on the basis of various studies, public consultations, surveys and benchmarking of other countries' Anti-corruption strategies. The framework for the new strategy is as follows:

- ❖ Risk based- Focuses on sectors or institutions with high propensity for corruption
- ❖ People driven- Bottom-top approach
- ❖ National Ownership (people & donors)
- ❖ Stakeholders participation (civil society)
- ❖ Knowledge based design (analysis of local Knowledge)

The following institutions are involved in preventive and investigative activities:

National Public Procurement Authority (NPPA)

A good public procurement system contributes in a major way towards the fight against corruption and improves governance, introducing efficiency and transparency in Public Financial Management (PFM).

The NPPA was created by an Act of Parliament in 2004. The legislation creating the NPPA covers all institutions utilizing public funds for procurement purposes. This includes partly or wholly owned enterprises or any institution in which government has 51% shares or more. Furthermore, the law makes it mandatory for all institution to create structures such as procurement committees for decision making and procurement units or

department for day-to-day procurement activities, record keeping and implementation of the provisions of the Act and its regulations.

The object for which the Authority is established is to regulate and monitor public procurement in Sierra Leone and to advise the Government on issues relating to public procurement. The National Public Procurement Authority is to ensure full compliance by all procuring entities, Suppliers, Contractors, Consultants and other parties in Public Procurement with the requirements of the Public Procurement Act 2004 and its regulatory instruments in order to ensure competitiveness, transparency, accountability and value for money in government expenditures.

In accordance with the legal and regulatory framework of the public procurement process, the NPPA introduced a procurement cadre within the civil service as well as government ministries, departments and agencies (MDAs) to separate procurement roles from other relevant functions, thereby ensuring that procurement professionals are limited only to undertaking activities bordering on procurement. Furthermore, the Authority is charged with the responsibility of verifying bidding documents and providing technical assistance to MDAs in order to ensure that procurement activities are carried out within the legal framework.

Moreover, each Procuring Entity (PE) is required to undertake regular internal monitoring of its procurement activities to ensure that such activities are conducted within the legal and regulatory framework. As it were, the Public Procurement Manual introduces a formal system of routine reporting on procurement to the NPPA coupled with the regular monitoring of procurement in a PE by the Auditor General and the Ministry of Finance.

Finally, the NPPA will assess the overall procurement process in a PE, including the issuance of reports of findings in consultation with the Auditor General.

Audit Service Sierra Leone (ASSL)

The ASSL was created by an Act of Parliament in 1998 to carry out the mandate of the Auditor –General whose establishment is traceable to the 1991 Constitution of Sierra Leone.

Essentially, the ASSL is charged with the responsibility of auditing the public accounts of Sierra Leone and its institutions as well as enterprises set up partly or wholly out of public funds. Since its inception, the ASSL has contributed immensely in introducing Public Financial Management reforms in the country. This is evident in the pivotal role it played in the promulgation of the Government and Accountability Act, 2005, Financial Management Regulation, 2007 and the National Public Procurement Authority, 2004 as well as recommendations made to government MDAs in order to strengthen their internal control systems.

Anti-Money Laundering

In recognition of the potential risk posed by money laundering to the financial and economic stability of Sierra Leone, the government enacted an Anti-Money Laundering Act criminalizing money laundering and related activities.

Sierra Leone currently has four agencies involved with the investigation and prosecution of Money laundering cases, namely the Sierra Leone Police (SLP), the National Revenue Authority (NRA), the Anti-Corruption Commission (ACC) and the Office of the Director of Public Prosecutions (DPP). However, none of the investigation agencies have been designated to conduct such investigations. Whilst the CISU has been mandated with responsibility to tackle the threat of money laundering and terrorism, it is unable to bring a matter to court without assistance from another law enforcement agency.

The legal framework for preventive measures for financial institutions can be found in the Anti-Money Laundering (AML) Act of 2005 which applies to all financial institutions as required by the FATF 40 + 9, whereas the Money Laundering Regulations (MLR) applies only to those financial institutions that are regulated by the Bank of Sierra Leone (BSL) under the Banking Act. The key strengths of the AML Act include, among other things, the criminalization of money laundering and terrorism financing, extension of the powers for freezing order from 72 hours to ten (10).

The MLR, which came into effect in 2002, is relied on as the primary instrument for preventative measures within the financial sector in Sierra Leone and covers nearly the entire mandatory preventative measures set out in the FATF standards. The AML Act is however deficient in some key areas such as client profiling and procedures for high risk clients, including politically exposed persons (PEPs). Compliance with the MLR is enforced through the BSL's program of supervision and examination. Sanctions for non-compliance include revocation of license, removal and replacement of management, officers and staff, mandatory instructions and fines. While the BSL engages in a program of annual on-site and periodic off-site examination of commercial banks and licensed foreign exchange bureau, it has yet to include more than a few provisions of the MLR in its supervisory examination program.

Financial Intelligence Unit (FIU)

In 2006, the monitoring and evaluation process was introduced in Sierra Leone to assess the country's level of compliance with international standards in the fight against money laundering and the financing of terrorism. The process identified a number of weaknesses within the country's AML/CFT regime; some of the identified weaknesses were addressed in the AML/CFT Act 2005. As it were, the AML Act 2005 was reviewed repealed and replaced by the AML/CFT Act 2012. As a result of this, the FIU was established pursuant to Section 2 of the AML/CFT Act 2012 as an autonomous entity.

Every six months the country submits to the Regional Coordinating Institution, GIABA a Mutual Evaluation Follow-up Report highlighting progress in addressing deficiencies within the AML/CFT regime. That report will incorporate the activities of all relevant stakeholders within the AML/CFT framework.

The FIU is empowered to directly engage in the following:

- Identify the proceeds of unlawful activities
- Combat money laundering activities, financing of terrorism and related activities
- Share information with law enforcement authorities , the intelligence services, other local and international agencies
- Supervise and enforce compliance with the AML/ CFT 2012
- Process, analyze add value and retain information disclosed to and obtained by the FIU.
- Exchange information with similar bodies in the other countries
- Monitor and give guidance to reporting institutions and individuals regarding their compliance with the provisions of The AML/CFT Act 2012
- Implement a registration system for all affected institutions and persons
- Contribute to the Global framework against money laundering and the financing of terrorism
- Annual review the implementation of the AML/ CFT Act 2012 and report on this to the Inter-Ministerial Committee (IMC)
- Develop policy options after thorough assessment of the available financial intelligence.

Of concern however as reflected by the performance rating by the inter-governmental working group against money laundering in West Africa (GIABA) is the inability to demonstrate the effectiveness of the Act through prosecutions and convictions of money laundering and terrorism financing offences two years after the criminalization of these activities.

The Office of the Ombudsman

The Office of the Ombudsman is a public office established by Act No. 2 of 1997.

The mandate of the Office is to investigate any action taken or omitted to be taken in the exercise of the administrative functions of any department, government agency, statutory corporation or institution set up with public funds. It safeguards the community in its dealings with government agencies in Sierra Leone, by independent and impartial investigation and resolution of complaints of improper administration on the part of officials. It works closely with the Human Rights Commission and the ACC, referring cases for investigation and sharing resources. The Ombudsman's powers are not judicial and do not provide for any kind of formal sanction for wrongdoings.

The Sierra Leone police play a key role in the Justice sector, especially since police officers routinely prosecute cases due to lack of staff resources in the Office of the DPP,

A major effort to reform the police has been under way since 2000, as a result of widespread allegations of indiscipline and corruption. The reform program has emphasized better training and meritorious promotions for officers of the force. The prison system, on which the war exerted a heavy toll, is also important for the Justice sector. Today the remaining prisons are severely overcrowded, conditions are dismal, and staff lack training.

6. The Justice Sector

The following make up the justice sector of Sierra Leone:

- The judiciary (courts);
- The Ministry of Justice and Attorney-General (law officers, Solicitor General, prosecution);
- The Ministry of Internal Affairs
- The Ministry of Local Government and Rural Development (local courts, police and prisons oversight);
- The Ministry of Social Welfare, Gender and Children's Affairs (approved school, remand home, juvenile justice, family matters and women issues);
- The Sierra Leone Police (investigation, prosecution, law enforcement);
- The Sierra Leone Prison Service (law enforcement and custodian of prisoners);
- Human Rights Commission (investigation of human rights abuses);
- Judicial and Legal Services Commission;
- Law Reform Commission (law review and reform);
- The Office of the Ombudsman (maladministration and administrative injustices); and
- The Ministry of Finance and Economic Development (budgetary allocations).

The justice sector is critical in the fight against corruption. However accountability mechanisms are either absent or weak in many of them and the **Judiciary** suffers from corruption, inefficiency and lack of transparency. The overall public perception of the judicial system is negative especially where the judges are reluctant to hand down custodial sentences on those convicted of corruption.

Various solutions to address these challenges of the Justice sector have been suggested. One was the creation of a payroll Trust Fund for judges and the recruitment of foreign judges on a contract basis, both paid for by the international community. This again poses a problem- employing foreign judges may mask the underlying problems in the system and hence delay the necessary reform process. Focusing on additional judges without addressing problems with the conditions of service and the need for additional court support is insufficient to deal with the core problems in the system.

Introducing foreign judges without improving conditions of local judges also has the potential of causing friction between the different types of judges and further undermining the justice system. Another initiative suggested to tackle the backlog of cases in the courts is to introduce a procedure for fast-track litigation or a special anti-corruption court.