United Nations CAC/COSP/IRG/2019/10*

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
27 June 2019

Original: English

Implementation Review Group
First resumed tenth session
Vienna, 2–4 September 2019
Agenda item 2
Review of implementation of the United Nations Convention against Corruption

Implementation of chapter II (Preventive measures) of the United Nations Convention against Corruption

Thematic report prepared by the Secretariat

Summary

The present report contains the most common and relevant information on successes, good practices, challenges and observations identified in the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, focusing on the implementation of chapter II (Preventive measures) of the Convention.

* Reissued for technical reasons on 16 August 2019.

V.19-05762 (E) 040719 050719

I. Introduction, scope and structure of the present report

1. In accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, which were adopted by the Conference of the States Parties to the United Nations Convention against Corruption in its resolution 3/1, the present thematic report has been prepared in order to compile the most common and relevant information on successes, good practices, challenges and observations contained in the country review reports, organized by theme, for submission to the Implementation Review Group, to serve as the basis for its analytical work.

2. The present thematic report contains information on the implementation of chapter II (Preventive measures) of the Convention by States parties under review in the second cycle of the Implementation Review Mechanism. It is based on information in the 25 executive summaries that had been completed at the time of drafting. The report focuses on existing trends and examples of implementation, and includes a table and figures on the most common challenges and good practices. More comprehensive trends and nuances will be identified in future iterations of the thematic and regional reports, as more data become available from the completed country reviews.

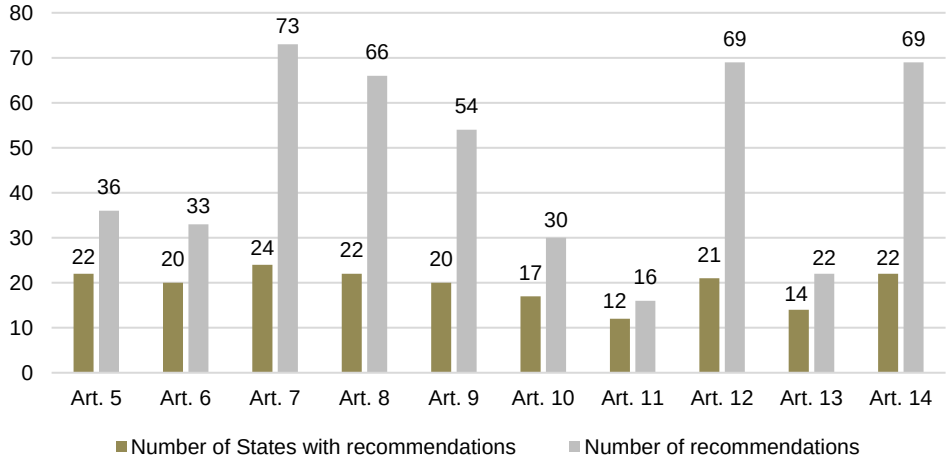
3. Given the close links between the various articles of the four substantive chapters of the Convention, the present report builds upon the previous thematic reports on the implementation of chapters III and IV of the Convention, which were under review in the first cycle of the Implementation Review Mechanism. The structure of the present report follows the structure of the executive summaries; certain articles and topics that are closely related are clustered together.

II. General observations on challenges and good practices in the implementation of chapter II of the United Nations Convention against Corruption

4. As requested by the Implementation Review Group, the present report contains an analysis of the most prevalent challenges and good practices in the implementation of chapter II, organized by article of the Convention. The figures and table below cover the 25 countries under analysis.[1]

Figure I

Challenges identified in the implementation of chapter II of the United Nations Convention against Corruption



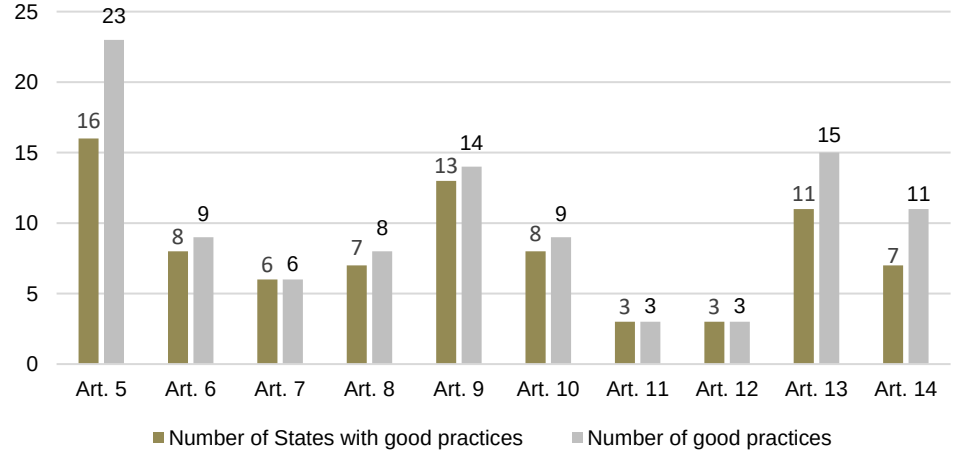
[1] Data used in the preparation of the present report are based on country reviews as at 25 June 2019.

Most prevalent challenges in the implementation of chapter II of the United Nations Convention against Corruption

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenge)*
Art. 5	22	31	Weak coordination and implementation of anti-corruption policies
			Limited coherence, comprehensiveness and effectiveness of national anti-corruption policies
			Lack of effective policies (strategies) and of coordination bodies
Art. 5, para. 2	5	5	Lack of corruption prevention measures, such as awareness-raising or education campaigns
Art. 6, para. 1	20	22	Lack of designated preventive anti-corruption bodies
			Insufficient resource allocation for corruption prevention bodies
			Inadequate legal and operational independence of anti-corruption bodies with preventive functions
Art. 7, para. 1	18	26	Lack of adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and for their rotation, where appropriate, to other positions
			Insufficient transparency in the recruitment of public officials, including lack of objective recruitment methods, limited public advertising of vacancies and inadequate appeals mechanisms for unsuccessful candidates
Art. 7, paras. 2 and 3	20	26	Inadequate criteria concerning candidatures for and election to public office
			Lack of comprehensive legislation or administrative measures to regulate the funding of candidatures for elected office and the funding of political parties, including on issues such as private donations and disclosure of donations
Art. 7, para. 4	14	19	Lack of legislation or mechanisms to prevent or regulate conflicts of interest
Art. 8, paras. 1 to 3	11	14	Lack of codes of conduct for public officials, or their limited application to certain groups of public officials
Art. 8, para. 4	14	14	Limited reporting channels and protection measures for public officials to report acts of corruption
Art. 8, para. 5	20	30	Inadequate measures on the prevention of conflicts of interest, including measures on outside activities, secondary employment, asset declarations and acceptance of gifts
Art. 9, para. 1	20	24	Ineffective systems of domestic review and appeal in public procurement matters
			Inadequate selection and screening methods and training for procurement officials
			No obligation for procurement officials to declare their interests in particular in public procurements and their assets
			Information and communication technologies are not being used to promote the effectiveness of the procurement systems (e-procurement)
Art. 9, para. 2	17	17	Limited transparency in the budget adoption process
			No or limited systems of risk management and internal control in the area of public financial management
			Need to strengthen audit procedures in order to improve reporting on revenues and expenditures
Art. 10	17	28	Lack of legislation or measures to comprehensively regulate public access to information and, where such legislation and measures are in place, gaps in the existing frameworks and inadequate operationalization and application thereof
			Burdensome procedures for accessing information and insufficient proactive information-sharing

Article of the Convention	*No. of States with recommendations*	*No. of recommendations issued*	*Most prevalent challenges in implementation (in order of prevalence of identified challenge)*
			Lack of or insufficient information published on corruption risks in the public administration
Art. 11, para. 1	12	12	Insufficient measures to strengthen judicial integrity
Art. 11, para. 2	4	4	Insufficient measures to strengthen integrity in the prosecution service
Art. 12, paras. 1 and 2	21	44	Limited cooperation between law enforcement agencies and relevant private entities
			Insufficient measures to prevent conflicts of interest, including a lack of or narrowly defined post-employment restrictions for former public officials
			Inadequate measures to prevent the misuse of procedures regarding subsidies and licences granted by public authorities for commercial activities
			Limited and/or inadequate standards and procedures, such as codes of conduct, aimed at safeguarding the integrity of private entities and inadequate measures to monitor compliance with those standards and procedures
Art. 12, para. 3	6	6	Insufficient measures to implement all elements of this paragraph
Art. 12, para. 4	9	9	Lack of or inadequate legislation on the non-deductibility of expenses that constitute bribes or are incurred in furtherance of corrupt conduct
Art. 13, para. 1	12	13	Limited participation of civil society in the prevention of and fight against corruption, including, inter alia, as a result of the lack of or inadequate implementation of relevant laws and procedures and limited corruption awareness campaigns
			Insufficient collaboration between relevant government agencies and civil society
Art. 13, para. 2	4	4	Inadequate measures and/or mechanisms for reporting corruption
Art. 14, paras. 1 and 4	20	37	Country-specific gaps in the legislation and regulations aimed at countering money-laundering and the financing of terrorism
			Institutional weaknesses in financial supervision
			Incomplete implementation of standards and recommendations issued by other international monitoring bodies, such as the Financial Action Task Force and Financial Action Task Force-style regional bodies
Art. 14, para. 2	8	9	Inadequate measures to detect and monitor the cross-border transfer of cash and bearer negotiable instruments
Art. 14, para. 3	4	4	Insufficient supervision of money or value transfer services

Figure II
Good practices identified in the implementation of chapter II of the United Nations Convention against Corruption



III. Implementation of chapter II of the United Nations Convention against Corruption

A. Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (articles 5 and 6)

5. The Convention recognizes that the different legal systems and traditions of States parties may require different approaches to the implementation of article 5, including to the adoption of national preventive anti-corruption policies. The different approaches taken by States to implement article 5 could be broadly categorized as follows: (a) the development of a comprehensive national anti-corruption strategy, as a single document or as a document embedded in other strategic government documents; or (b) the formulation of an implicit policy, which may not always be codified in a specific document, but is nevertheless implemented through consistent efforts to prevent corruption through the drafting of legislation and taking specific measures to address it.

6. The majority of the States parties had adopted or were in the process of adopting specific anti-corruption strategies and action plans, while some States had also developed plans at sectoral and organizational levels.

7. Eight of the countries had either formulated implicit anti-corruption policies or had instead focused on issues at the sectoral level, without developing a comprehensive document with a national scope.

8. A key element of any robust anti-corruption strategy is the establishment of an effective coordination mechanism, which ensures that all public bodies with responsibilities under the strategy will be involved in the implementation of that strategy. All States parties have sought to establish such a mechanism, with two different approaches emerging as trends.

9. While some countries opted for the establishment of a centralized body close to the centre of Government to coordinate implementation and oversight, others charged the existing structures, such as anti-corruption bodies and line ministries, with that task.

10. The coordination of anti-corruption policies continued to pose challenges in countries, where the reviewers noted the need to ensure greater coherence and coordination of the policies adopted. Enhancing coordination between national and departmental anti-corruption policies – in particular with regard to implementation, monitoring and revision, and information exchange – is one of the most frequent recommendations issued.

11. In some instances, the anti-corruption policies were contained in the legislation, departmental policy documents and national integrity plans, which was seen as sufficient by the reviewers.

12. An interesting practice identified in the course of country reviews was the inclusive nature of the processes of developing national anti-corruption strategies or policies, namely the engagement with a wide range of stakeholders, including civil society.

13. A broad variety of practices aimed at the prevention of corruption were identified, including the introduction of anti-corruption measures at the organizational level, the development of codes of conduct, the introduction of asset and interest disclosure systems, the organization of awareness-raising and education activities, the introduction of whistle-blowing regimes for public officials, the provision of training for public officials, and the development of corruption risk management tools and various reports, surveys and studies. The establishment of integrity and anti-corruption units in governmental bodies and departments and the publication of annual reports of the panels and committees of the anti-corruption bodies, as well as surveys of public perception of corruption, were identified as good practices in some countries.

14. Many States reported that their anti-corruption bodies played a role in the review of relevant legal instruments and administrative measures, with a view to determining the adequacy of those measures in preventing and fighting corruption.

15. All countries reported on their membership or involvement in regional and international organizations, programmes and projects aimed at the prevention of corruption, including the Group of States against Corruption of the Council of Europe; the Working Group on Bribery in International Business Transactions of the Organization for Economic Cooperation and Development; the Anti-Corruption Initiative for Asia and the Pacific of the Asian Development Bank and the Organization for Economic Cooperation and Development; the International Anti-Corruption Academy; the International Association of Anti-Corruption Authorities; the Global Anti-Corruption Initiative of the United Nations Development Programme; the Advisory Board on Corruption of the African Union; the Network of National Anti-Corruption Institutions in West Africa; the Extractive Industries Transparency Initiative; the Pacific Islands Law Officers' Network; the Pacific Islands Forum secretariat; the secretariat of the Pacific Community; and the Pacific Association of Supreme Audit Institutions. International treaties such as the African Union Convention on Preventing and Combating Corruption and the Economic Community of West African States Protocol on the Fight against Corruption were also noted as relevant. One country provided information on numerous memorandums of understanding that had been agreed with other States in the area of anti-corruption.

16. While the majority of countries had established dedicated anti-corruption bodies responsible for the implementation of policies and activities on the prevention of corruption, some States took a different approach, relying on existing institutions, such as ethics committees, line ministries, financial intelligence units and public service departments, to prevent corruption and implement national anti-corruption policies. Only one country reported that it had no specialized anti-corruption preventive body in place. A recommendation was issued in that regard.

17. The place of anti-corruption preventive bodies in national institutional structures, and therefore their independence, varied. Two general approaches emerged as prevalent: establishment of a new, autonomous institution and tasking existing institutions with the relevant preventive functions.

18. The establishment of special high-level committees was a preferred method to ensure the effective coordination of the anti-corruption policies. Those committees usually consisted of high-level appointed and elected public officials, including government Ministers.

19. Different approaches to ensuring the independence of the corruption prevention bodies. They included the provision of constitutional guarantees and the adoption of appropriate legal provisions, including provisions on security of tenure, budget and staffing; and the use of the traditional civil service structures and legislation, with no special guarantees being provided.

20. A total of 19 countries had officially informed the Secretariat of their designated preventive bodies. The others were encouraged to submit information to that effect.

B. Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (articles 7, 8 and 11)

21. All of the reviewed States had established rules and procedures governing the recruitment, hiring, retention, promotion, retirement and discipline of public officials in their Constitution or national legislation, in particular laws governing the civil service. Most countries had merit-based systems for the administration of public officials. For example, the majority of States applied competitive procedures for the recruitment and promotion of public officials, such as written tests and interviews. However, one State followed an internal rotation system for the selection of

individuals for lower-ranking positions. Another State only applied competitive procedures to the recruitment of applicants for certain categories of officials.

22. There was some variance among the reviewed States parties regarding their institutional structures for the administration of public officials. Some countries had established centralized bodies in charge of recruitment, retention and disciplinary action in relation to their public officials, while other States used a more decentralized approach by delegating such authority to various government agencies.

23. Half of the countries advertised vacancies publicly on the Internet or through newspapers. In that regard, one country had created a one-stop website for submitting applications for all positions in the public service, with a view to ensuring transparency. A good practice identified in another country was the obligation of recruitment authorities to ensure that all vacancy advertisements draw attention to the principles of integrity, honesty, accountability, efficiency and transparency. In addition, some countries had appeal mechanisms in place for unsuccessful candidates to challenge a hiring decision. Such mechanisms varied across countries and ranged from lodging a complaint to a designated agency to the option of filing administrative appeals to the courts.

24. In general, States did not elaborate on or define "positions considered especially vulnerable to corruption". Nevertheless, a number of States had taken additional measures for the selection, rotation and training of individuals for public positions deemed vulnerable to corruption or had specifically identified such positions in their public administration systems, such as legislature, law enforcement, judiciary and procurement personnel or officers involved in the allocation of licences and permits. Taking into account the mandatory nature of article 7, subparagraph 1 (b), for States to endeavour to implement that provision, the majority of States received recommendations in that regard, owing to their inadequate implementation of the provision. For example, one country reported on the existence of a rotation system for public officials, but that system was not specifically for positions considered vulnerable to corruption. Furthermore, several countries did not have any rotation systems in place, while a number of other States applied the same requirements to all the public positions, without providing for enhanced measures pertaining to the positions prone to higher risks of corruption.

25. A significant number of States highlighted that education programmes or specialized training, especially on anti-corruption, integrity and ethics, were available to enhance awareness of the risks of corruption among public officials. Those programmes were provided either upon initial appointment or on a continuous basis. Many of the countries also demonstrated that adequate remuneration was provided to public officials.

26. All countries had relevant laws in place setting out criteria concerning candidature for and election to public office, though a few had rather limited rules and regulations on that issue. In order to enhance transparency, some countries also required candidates for certain positions to declare their assets or potential conflicts of interest.

27. With regard to the issue of transparency in the funding of elections and political parties, around a dozen States in the sample referred to the rules on the funding of candidatures for elected public office, with over half of the countries indicating that the funding of political parties was governed by relevant legislation. However, one State reported that there were no political parties in that country and thus no law pertaining to that issue was needed. Several States were either planning to draft specific laws in that area or had drafts under consultation at the time of the country visits. In addition, it was observed that the relevant national legislation in various States differed significantly in its content and coverage. For instance, the legislation in some States allowed for funding from both public and private sources, while in other States, the legislation either provided for public funding as the main source of political financing or only allowed for private funding for elections and political

parties. Furthermore, several States did not regulate private donations in their national laws or provided no limit for contributions. Recommendations were issued accordingly.

28. In terms of institutional arrangements for reporting on political funding, a number of States had established dedicated national election commissions to supervise or monitor campaigns and election processes. In that regard, relevant entities were obliged to keep records of funding and report them to the election commissions, with such records being publicly available in a few States. Sanctions for non-compliance of reporting could also be applied. The prohibition of anonymous donations, gifts or loans of a monetary nature or in kind from national or foreign legal persons to political parties was identified as a good practice in one country.

29. Almost all countries had rules in place on the prevention of conflicts of interest and reported on various regulatory measures for the public sector in that regard (art. 7, para. 4, of the Convention). The scope and content of the applicable frameworks to prevent conflicts of interest and the types of prohibited interests and activities varied. Countries referred to a range of prohibited interests, such as prohibiting the engagement of public officials in secondary employment or outside activities, limitations on gifts, and financial disclosure requirements for certain public officials. Many States had also adopted systems and procedures for public officials to declare their existing or potential conflicts of interest with possible sanctions for non-compliance. In one State, any legal act or contract in which a conflict of interest was identified could be annulled.

30. In regard to article 8 of the Convention, all countries referred to their different laws, especially general laws on the civil service, and other measures in promoting integrity, honesty and responsibility among public officials. All States also reported that various codes of conduct or ethics were in place or under review for public officials. In that regard, most countries had adopted general codes of conduct for setting out duties, principles and guidelines either for all public officials or for a majority of civil servants. However, the code of conduct in one country was not applicable to elected public officials, while in another country international standards were not fully considered in drafting the code. Recommendations were issued accordingly. Apart from the general codes of conduct, more than half of the States had adopted sectoral codes of conduct or specific codes for certain types of public officials. In general, it was found that countries had diverging approaches to codes of conduct, with a number having developed both general codes for all public officials and separate codes for individual agencies and statutory bodies, and others having either a principal code or maintaining several sectoral codes to cover a wide range of government officers.

31. In some States, the codes of conduct were not merely of an aspirational nature, but also had enforceable power. For example, in one country, violations of the codes of conduct were addressed through administrative procedures, and in the case of a violation requiring dismissal, such disciplinary proceedings would be referred to the Administrative Court. Similarly, in another State, non-compliance with the code gave rise to disciplinary procedures, and sanctions for public officials included reprimands, disciplinary transfers, reductions in rank or salary, and even dismissal. In several countries, codes of conduct served to raise awareness, but not as a disciplinary tool. In that regard, one country explained that that was due to the fact that its code of conduct was based on the relevant provisions of the civil service law that already provided for disciplinary measures. Moreover, a number of countries had designated a special agency or the head of each agency to monitor the enforcement of the codes of conduct.

32. Measures or procedures to facilitate the reporting by public officials of acts of corruption varied among the States in this sample. Almost a majority of States reported that public officials had a duty to report any suspected crime, including corruption, to various authorities. In some countries, sanctions could also apply to public officials in case of failure to report acts of corruption or other misconduct. With respect to reporting channels, several countries referred to the diverse platforms

or dedicated reporting channels that could be utilized by public officials under certain circumstances, while a few others explained that public officials were subject to the common reporting channels available to the general public, since there were no specific needs for distinguishing reporting by public officials and other persons. However, some States were identified as having inadequate measures, including a lack of proper systems, to facilitate the reporting by public officials. Recommendations were issued in those cases. In terms of protection of reporting persons, almost one third of States reported legislative and other measures for whistle-blower protection, in particular in respect of public officials.

33. Most countries reported that they had put in place requirements for the regular submission of asset declarations for certain levels of public officials. Some States provided that family members of selected public officials, such as spouses and children, were also subject to the same financial disclosure obligations, while a few States extended such disclosure systems to all public officials. Recommendations were issued in instances where the scope of public officials subject to such declaration systems was too narrow. The issue of verification of declarations was also seen as a challenge. One State mentioned that it had no verification process in place and that the responsible department only collected the submitted declarations, while another State reported that, although relevant ministries carried out their own verification within their departments, there was no oversight by any external authority of that process. Some States stressed that resources or means were inadequate to verify asset declarations. A few countries also indicated that electronic tools could be used or developed for the submission and verification of such declarations. One country that did not have a financial declaration system for its public officials in place reported that such a system would unduly interfere with the right to privacy. Moreover, its public officials were subject to tax declarations of their income and assets worldwide. Of those countries that had financial disclosure systems in place, almost half provided sanctions for non-compliance. Further details on asset and income disclosure systems were reported under article 52, paragraph 5, of the Convention.

34. In addition, countries referred to other measures, such as requiring public officials to make declarations regarding, inter alia, their outside activities, employment, gifts or benefits from which a conflict of interest could arise. A number of countries reported on restrictive measures on external activities of public officials, while a number of other States prohibited secondary employment of public officials or allowed for such employment only on an exceptional basis, with a view to preventing abuse of office and promoting transparency in the public sector. Half of the countries in the sample had rules in place prohibiting the acceptance of gifts by public officials, except those of low value or “courtesy presents”. Most of those countries also required the reporting of gifts above a certain value. However, States differed on the interpretation of “low” or “de minimis” value. For example, it was recommended that one country, which had a threshold of $200 for reporting, consider lowering the limits in relation to gifts for public officials that were subject to mandatory declaration and refusal or remittance.

35. In regard to article 11 of the Convention, in the majority of countries the independence of the judiciary was enshrined in the Constitution or relevant laws on the organization of the court system. Most countries referred to their legislation that set out the duties and rights of judges and rules on recruitment, tenure and dismissal of judges. The selection of judges was usually conducted by dedicated bodies, such as commissions, councils or committees. These bodies, to a large extent, also served as disciplinary bodies for appointed judges, and imposed disciplinary measures as required. In addition, all countries reported on measures that addressed conflicts of interest among members of the judiciary, including the recusal of judges, the prohibition of acceptance of gifts and restrictions on outside activities. In some States, judges were required to comply with the asset declaration systems. More than half of the countries reported on specific codes of conduct or guidelines for judges. A significant number of countries also reported on training programmes for judges, in particular on judicial integrity.

36. With regard to the prosecution services, States had adopted various laws, regulations and policies that set out the rights and duties of prosecutors, including rules that governed their independence and conduct. Many States reported specific codes of conduct for prosecutors, while in one State members of the prosecution service were also required to adhere to the general code of conduct for public officials. In a small number of countries, public prosecutors were expected to submit asset declarations or disclose conflicts of interest, if necessary. In addition, several countries reported on measures to enhance integrity among prosecutors, including integrity training and procedures on case management. Some States had also adopted guidelines or policies to control the exercise of prosecutorial discretion.

C. Public procurement and management of public finances (article 9)

37. While all the States had adopted measures regulating public procurement, the overall approach to regulation differed. The vast majority of the States had adopted domestic legislation, which implemented the provisions of article 9 and was based on the principles of competition, transparency and objectivity.

38. There were four countries which had regulated procurement through regulations and ordinances, or by delegating the issuance of rules and regulations to government Ministers. Most of the States parties had implemented decentralized procurement systems, where the individual government bodies were responsible for their own procurement processes. Exceptions to that model were countries that either centralized all, or only high value, procurements through a central procurement body.

39. Integrity in procurement requires that all participants in the procurement process have the same information on the deadlines and on the participation and selection criteria, and have sufficient time to prepare for the submission of the tender documentation. All States had adopted legislative procedures to ensure the transparency of the procurement process, including, at a minimum, the publication of invitations to tender. While many countries did that through publication in newspapers or official journals, websites and Internet portals were increasingly utilized for that purpose. In all of the countries, the procurement legislation required that the publication of procurement notices be made early so as to allow for sufficient time to prepare and submit tenders.

40. Using the open tender procedure by default reduces the risks to integrity associated with artificially restricted competition and ensures that the goods or services are procured at a fair market price. The free competition of many participants in the tender process makes bid rigging and collusion less likely and easier to detect.

41. All but one country had established systems for the review of procurement decisions to address complaints lodged by participants. Such a system is indispensable for the integrity of the procurement system. While some countries relied on systems of administrative review, others provided for either judicial review or a combination of the two, depending on the specificities of their legal systems.

42. Sound and merit-based procedures for the selection of procurement personnel is an important prerequisite to ensuring the effectiveness and integrity of the procurement system. Selection systems should take into account the provisions of article 8 of the Convention, with due regard to the specificity of the positions involved in procurement.

43. In both centralized and decentralized procurement systems, the Convention requires States parties to undertake special measures to promote ethical conduct and to effectively prevent and manage conflicts of interest in order to ensure the integrity of the procurement processes. In terms of regulating the personnel responsible for procurement, three States had adopted screening procedures for recruitment, legislation or rules on accountability, conflict of interest declaration systems and periodic training. One State had no specific requirements for relevant personnel to declare their interests or assets. Recommendations were issued accordingly.

44. A strong system for the management of public finances ensures the proper expenditure of public finances, strengthens confidence in the institutions and ensures a high quality of public services. To address this challenge, article 9, paragraph 2, of the Convention requires States parties to promote transparency and accountability in the management of public finances.

45. To that end, the procedures for adoption of the national budget are of principal importance. They require a process of drafting, reviewing and adopting the budget by a number of institutions usually involving all three branches of power. Effective and inclusive budget planning helps to prioritize projects that are of real need for the society.

46. All States had adopted laws, regulations and procedures regulating the adoption of the national budget. The execution of financial operations and budget implementation were subject to varying levels of control, although in all States, frequent and timely reporting was required, and corrections could be made in case of failure. One State had developed a rating system to measure budgetary controls, and an accountability index had been formulated. In another State, all ministries were required to establish budget implementation committees to identify priority areas and address relevant issues.

47. Several States used their Supreme Audit Institutions for oversight purposes. Audit reports were generally accessible by the public, with a few exceptions, and follow-up action could be taken to resolve issues raised in the reports. Nevertheless, in one State, there was no effective mechanism of audit and oversight for certain categories of expenditure, and a recommendation was issued accordingly.

48. The storage and preservation of financial documents was provided for in States parties that allowed open access to archives and used electronic systems to manage files. It was seen as a good practice that one State provided that original records had to be kept for a period of 10 years, despite the use of electronic copies.

D. Public reporting; participation of society (articles 10 and 13)

49. All States parties had taken measures, to varying degrees, to facilitate public access to information, with 19 countries having relevant legislation in place. One State that did not have relevant legislation provided platforms for the public to obtain information on the public administration through open data initiatives. Another State had relevant legal requirements, but they concerned only public procurement, the budget and public financial management. In another State, although the right to information was included as a general principle in the national anti-corruption strategy, no specific legislation had been adopted. In five States, legislation on access to information either had not yet been adopted or was under development and recommendations were issued in that regard. It was recommended that those States parties enhance transparency and strengthen procedures to allow for greater public access to information.

50. Notably, almost all the States provided for multiple channels to access information on the public administration, including through Internet portals, such as e-government, e-citizen, e-procurement, e-invoice and i-tax portals. Such channels included official gazettes, national television, press releases, publications, newsletters, websites or mobile telephone applications. In most States, government authorities posted the majority of their reports online, while in some States all open data was released to the public. Electronic services and information centres were widely used to handle information requests, with a view to simplifying administrative procedures. Reference was made by eight States to their participation in the Open Government Partnership.

51. The majority of States had also designated or established dedicated agencies and offices (and, in one instance, transparency units and committees) to deal with access to information requests or to monitor relevant practices. In general, government agencies published annual reports or proactively shared information on diverse

platforms. However, one State indicated that only some government divisions published information online, and most ministries did not maintain official websites. A recommendation was issued in that regard.

52. Most States parties had appeals mechanisms for recourse to administrative or judicial remedies in cases where access to information was not granted. However, in one State, that was only possible for information on public procurement. Moreover, most States allowed decisions to deny access to information to be made on legitimate grounds, provided that the reasons were well explained. In that context, the balance between the protection of privacy and personal data, national security and the right to information was raised. For instance, in some States, it was an offence to wrongfully disclose official confidential information, such as Cabinet documents. It was also reported in other States that the application of national secrecy laws had limited access to classified government information. Recommendations were issued in that context.

53. Most States respected freedom of association, which was enshrined in their legislation or, as in the case of 18 States, in the constitution. Freedom of expression was equally protected in most States.

54. Almost all States attached importance to the role played by civil society during the decision-making and policymaking processes. In line with national legislation, initiatives and policies, various means such as referendums, elections and direct consultation, in particular with civil society, were regularly used to promote public participation in the fight against corruption. In addition, one State had designated a seat on the policy council of its anti-corruption national authority for civil society, and most States invited non-governmental organizations to specifically provide comments on draft laws, to participate in policy review exercises or to engage with civil society on corruption prevention measures. Of those, five States reported that civil society organizations had been invited to participate in the drafting and implementation of national anti-corruption strategies or policies. In one State party, civil society was not consulted on the development of laws or the national budget, but was more engaged in the dissemination of information and awareness-raising campaigns. A recommendation was issued in that regard.

55. Numerous anti-corruption awareness-raising activities were in place in the countries in the sample. Those activities included special curricula and events in schools, frequent training and information campaigns, television shows and periodic reports. Civil society organizations were heavily involved in that process and in the different programmes. However, statistics on the impact of those measures were not available.

56. Regarding the freedom to publish and disseminate information concerning corruption, 19 States provided for freedom of the press in their legislation, albeit with legal restrictions to protect legitimate interests such as the public order and State security. No data on the application of those restrictions were available. At the same time, in some States, the freedom of the press appeared to be curtailed, despite relevant provisions in the national legislation.

57. In order to facilitate the reporting of complaints and allegations to anti-corruption bodies and authorities, the majority of States provided a range of channels, including websites in some cases, and methods, including mail or electronic means, toll-free numbers or hotlines, and mobile applications. In 21 States, anonymous reporting was allowed and protected, not only on a policy level but also by legal provisions. However, in one State, which had laws to protect anonymous reporting, concerns over the scope of protected disclosures and follow-up mechanisms on reports were raised. That State committed to reviewing its legislation and providing greater protection to reporting persons in combating corruption. Two other States did not provide for the possibility of anonymous reporting.

E. Private sector (article 12)

58. All States had adopted standards and procedures designed to prevent corruption in the private sector to various degrees. Most States had adopted national legislation either on corporate governance or in specific areas such as accounting, auditing and business registration. Some States could directly apply international or regional legal instruments or accounting standards to business entities. In 21 countries, special agencies or authorities were designated to supervise corporate governance, and companies were obliged to report periodically on their compliance. One State had furthermore developed a specific corporate social responsibility system.

59. A total of 16 countries more specifically promoted cooperation between law enforcement agencies and private entities through legislation or special initiatives. For example, one State provided in its anti-money-laundering law that private companies were required to provide information to and collaborate with prosecution and judicial authorities, particularly with regard to freezing and confiscation measures and the reporting of suspicious transactions. Another State was taking steps to establish a whistle-blowing mechanism for auditors, in order to facilitate such cooperation.

60. In order to safeguard the integrity of private entities, most States had adopted a variety of standards and procedures, such as codes of conduct, compliance requirements, business judgment rules and mechanisms concerning the prevention of conflicts of interest in the private sector. One State's anti-corruption strategy required private sector investors to implement anti-corruption compliance programmes, and non-compliance could lead to sanctions. However, in one country, only some large companies had begun to develop compliance programmes, and another State had not taken sufficient steps to preserve integrity in the private sector. Recommendations were issued to both States parties in that regard.

61. Nineteen States had adopted specific business registration requirements for companies and corporations, with a view to enhancing transparency among private entities. In one country, non-registration of the entity could even lead to penal consequences. Nevertheless, owing to the complex composition of the private sector, some legal arrangements, such as trusts, were not fully covered by the registration provisions.

62. No comprehensive information was available on public oversight of the use of subsidies by private entities and licences granted by public authorities for commercial activities (relating to art. 12, subpara. 2 (d), of the Convention) or on the restrictions on the professional activities or employment of former public officials (relating to art. 12, subpara. 2 (e), of the Convention). In half of the States, regulations on post-employment restrictions for public officials had been put into place, although in some States there was no enforcement mechanism to ensure compliance. Recommendations were issued in that regard. In one State, there were insufficient measures to prevent the improper use of regulatory procedures for private entities and inadequate restrictions on the exercise of professional activities by former public officials in the private sector. In another State, a regulation prohibiting former public officials from being employed in the private sector after their resignation or retirement was under development. Recommendations were issued to address the gaps identified.

63. Almost all States parties had established accounting and auditing standards for the private sector in different forms. Half of them relied on their domestic laws and regulations, and the rest could apply relevant international standards.

64. As for specific requirements on the maintenance of books and records, most States applied legal sanctions for violations thereof. Those sanctions included criminal punishment for certain offences such as forgery and falsification of documents, use of false documents, aggravated fraud and deceit. However, except in the case of one State party, not all acts enumerated in article 12, paragraph 3, of the Convention, such as the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions and the intentional destruction

of bookkeeping documents earlier than foreseen by the law, were criminalized. In that context, such conduct was always subject to fines, and on a few occasions, the relevant private sector entities could be held individually or jointly liable.

65. There was some variation among the States parties with regard to prohibiting the tax deductibility of expenses that constituted bribes. Although the legislation of over half of the States clearly provided that tax deductions of expenses constituting bribes were prohibited, the tax laws of the remaining States were silent on the issue.

F. Measures to prevent money-laundering (article 14)

66. The States in this sample received a number of recommendations in relation to the implementation of article 14.

67. All the countries cited various legislation, in particular their laws on anti-money-laundering and countering the financing of terrorism, and detailed their regulatory and supervisory regimes. In most countries, legislation on the prevention of money-laundering contained provisions on the identification of customers and beneficial owners (the know-your-customer principle), customer due diligence, record-keeping and submission of suspicious transaction reports by reporting entities. In addition, all but two countries had introduced rules for conducting enhanced scrutiny of accounts sought or maintained by or on behalf of politically exposed persons, including their family members and close associates, as well as other high-risk accounts and transactions.

68. Countries differed in designating their supervisory authorities for banks and non-bank financial institutions. Some States had designated various authorities in supervising different sectors, while one State had established a financial markets authority as the sole, integrated and independent supervisory authority. Entities that were subject to anti-money-laundering obligations always included banks and non-bank institutions and, in a number of countries, also included designated non-financial businesses and professions. However, some States had limited lists of non-financial businesses and professions, which were required to implement anti-money-laundering obligations, and therefore recommendations were issued.

69. A risk-based approach was applied in a large number of countries, although some States did not articulate such an approach in their legislation but used it more in practice. That approach required that the levels of scrutiny (typically normal, enhanced and simplified due diligence) applied to customers and transactions commensurate with the relevant risks. Recommendations for providing a specific reference to a risk-based approach or considering using that approach in the anti-money-laundering regime were issued in several cases. Almost two thirds of countries had completed or were in the process of completing their national risk assessments on money-laundering.

70. Almost all the countries had established financial intelligence units. In many instances, the unit was an administrative-type financial intelligence unit, which was placed under different authorities in the countries in the sample. All but six of the units in the reviewed States were members of the Egmont Group of financial intelligence units. Some were also members of regional groups of financial intelligence units. In general, obliged entities were responsible for the filing of suspicious transaction reports to the units.

71. All the countries had adopted rules or measures to monitor the cross-border movement of cash and appropriate bearer negotiable instruments. Such monitoring was usually based on disclosures, with a typical reporting threshold equivalent to approximately $10,000. Almost all of the States also reported on their regimes to govern electronic transfers of funds, including measures on money remitters. However, money or value transfer services, including informal money transfer services, were not adequately regulated in some countries, and recommendations were issued, as appropriate.

72. Many countries referred to their membership in the Financial Action Task Force or Financial Action Task Force-style regional body, such as the Council of Europe Committee of Experts of the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, the Asia-Pacific Group on Money Laundering or the Intergovernmental Action Group against Money Laundering in West Africa (GIABA). A large number of recommendations were issued pertaining to follow-up measures to address gaps or challenges previously identified in other evaluations, especially by the Financial Action Task Force. The mutual evaluations carried out by Financial Action Task Force and Financial Action Task Force-style regional bodies appeared to have ensured a high level of compliance.

73. With regard to global, regional, subregional and bilateral cooperation among different authorities for the purposes of combating money-laundering, many States referred to the possibility of sharing information by their financial intelligence units on a spontaneous basis, with both domestic authorities and foreign counterparts. In addition, a number of States could provide assistance on the basis of bilateral memorandums of understanding or through various multilateral forums, such as the Financial Action Task Force and the International Criminal Police Organization (INTERPOL).