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State of implementation of the United Nations
Convention against Corruption

Executive summary: Ghana

Note by the Secretariat

The present conference room paper is made available to the Implementation Review Group in accordance with paragraph 36 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (Conference of the States Parties resolution 3/1, annex). The summary contained herein corresponds to a country review conducted in the third year of the second review cycle.



II. Executive summary

Ghana

1. Introduction: overview of the legal and institutional framework of Ghana in the context of implementation of the United Nations Convention against Corruption

Ghana signed the Convention on 9 December 2004 and ratified it on 16 December 2005. It deposited the instrument of ratification on 24 June 2007. The country was reviewed in the third year of the first review cycle, and the executive summary was published on 2 February 2015 ([CAC/COSP/IRG/I/3/1/Add.18](#)).

Ghana has a dualist, common law system and does not apply the Convention directly.

The institutions most relevant in preventing and combating corruption are the Commission on Human Rights and Administrative Justice (CHRAJ), the Economic and Organized Crime Office (EOCO), the Office of the Special Prosecutor, the Ghana Police Service, the Attorney General's Office, the Financial Intelligence Centre, the Auditor General's Office, the Internal Audit Agency, the Public Procurement Authority, the Controller and Accountant General's Department and the Registrar General's Department.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

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

The 10-year National Anti-Corruption Action Plan (NACAP), which was adopted by Ghana on 3 July 2014 pursuant to article 35 (8) of the Constitution, provides that the State is to take steps to eradicate corruption and the abuse of power. The NACAP was developed following a gap analysis and widely held consultations. The NACAP's institutional and implementation arrangements are the High-Level Implementation Committee, the Monitoring and Evaluation Committee and the Implementation Support Unit under the CHRAJ. Another MOU establishing a coordination and collaboration platform for Key Accountability Institutions was due to be signed in December 2019.

Several awareness-raising and public education campaigns have been organized as a result of the NACAP. Annual reports on the status of the NACAP's implementation are made publicly available on the website of the CHRAJ, although inconsistently, and progress is evaluated regularly.

The CHRAJ is the main body responsible for anti-corruption efforts and for overseeing the coordination and implementation of the NACAP (art. 218 of the Constitution, which made provision for Act 456 of 1993 establishing the CHRAJ). Unlike other anti-corruption bodies, CHRAJ's institutional and operational independence is protected under the Constitution (arts. 225). The President appoints members of the CHRAJ in consultation with the Council of State (arts. 70 and 217). Those members can be removed only on the grounds of stated misbehaviour, incompetence or inability to perform the functions of their office (arts. 146, 223 and 228). The CHRAJ submits its budget to Parliament through the Ministry of Finance though under the Constitution, it is to do so directly to the Parliament (art. 227).

The CHRAJ is a member of the Association of Anti-Corruption Agencies in Commonwealth Africa, the Association of Anti-Corruption Authorities in Africa and the Network of National Anti-Corruption Institutions in West Africa.

Ghana has informed the Secretary-General that the CHRAJ is the designated corruption prevention authority.

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

The Public Services Commission supervises and regulates human resource management matters within public service agencies (art. 196 of the Constitution; sect. 4 of Act 482). The 2015 Human Resource Management Policy Framework and Manual for the Ghana Public Services details exemplary recruitment, hiring and training programmes for employers. The Fair Wages and Salaries Commission is responsible for ensuring the implementation of the country's public service pay policy under the Fair Wages and Salaries Commission Act, 2007 (Act 737).

The Public Services Commission is responsible for the recruitment of civil servants at the director level and above (categories A and B), with appointments by the President made in consultation with the Council of State (sects. 4.2.4.2 and 4.9 of the 2015 Policy Framework and Manual), although it remained unclear how such candidates were identified. Civil servant positions in lower categories are advertised and recruited in a decentralized manner by each institution, with support from the Commission. Concerns were noted regarding the lack of vetting and background checks of potential candidates for public office. Ghana has a single spine salary structure for the public service, providing a unified framework for grading and payment (sect. 3.3 of White Paper No. 1/2009). The country has established an electronic human resource management information system with oversight by the Public Services Commission.

The Presidential Elections Act, 1992 (Act 285) establishes general eligibility criteria (sects. 1–5) and disqualifies persons who have engaged in fraud or abuse of power or who have acquired assets unlawfully (sect. 2). A person who has not declared assets in accordance with the Public and Political Office Holders (Declaration of Assets and Eligibility) Act, 1992, is ineligible to serve as President (sect. 5). The ineligibility of Members of Parliament (art. 94 of the Constitution), Public Services Commissioners (art. 194, para. 3 (a)) and public office holders enumerated in Schedule I of the Public and Political Office Holders (Declaration of Assets and Eligibility Act), is similar. (sect. 9).

Ghana has not established legal limits on the amount a citizen (including legal entities at least 75 per cent owned by a citizen) can contribute to the funding of either a candidate for elected public office or a political party (sects. 23 and 24 of the Political Parties Act, 2000 (Act 574)). The Government of any other country can provide cash to be used for in-kind assistance to the Electoral Commission for the collective benefit of registered parties and corporations, provided they are at least majority-owned Ghanaian (sect. 25 (4)). The funding of presidential or parliamentary candidates is not regulated. A conviction for some election-related offences may result in disqualification from voting and holding public office for seven years (sects. 239 (1) and 256 of the Criminal Offences Act 1960 (Act 29)).

Political parties must publicly declare all revenue and assets, as well as the respective sources, and must publish their audited accounts annually (art. 55 of the Constitution; for sanctions, see sects. 1, 13 and 29 of Act 574). However, there are no sanctions when candidates fail to provide an accounting of their funding to the Electoral Commission. Citizens must pay to obtain a copy of the audited accounts of political parties (sect. 21 of Act 574).

The Constitution includes a general code of conduct for all public officers (arts. 284–288). The Conduct of Public Officers Bill, 2018, specifies that a public officer must not use his or her office for personal gain, solicit or accept gifts, engage in self-dealing or allow conflicts of interest (sects. 18 and 20–28; sect. 3.4.3 of the mandatory 2006 Guidelines on Conflicts of Interest). Conflicts of interest are defined as actual or potential conflicts between a public official's personal interest and professional role. (sect. 2.0 of the mandatory 2006 Guidelines on Conflicts of Interest). Public officers must report such conflicts to the head of their institution, to CHRAJ or another appropriate body (sects. 23, para. 2, and 24 of the Conduct of Public Officers Bill). Such conflicts may be resolved through a number of measures,

including recusal, transfers, re-arrangement of duties and resignation (sect. 4.3 of the mandatory 2006 Guidelines on Conflicts of Interest). However, there is no monitoring mechanism to ensure compliance.

Public institutions may have specialized codes of conduct (sect. 15 (4) of the Conduct of Public Officers Bill) that are enforceable pursuant to article 287 of the Constitution. At the time of the country visit, Ghana was in the process of training ethics officers for all public institutions and the CHRAJ was conducting corruption risk assessments in selected institutions.

The National Ethics Advisory Committee, which includes members from the CHRAJ, the Public Services Commission and the Ghana Police Service, was established under the general code of conduct to promote integrity in the public sector. The Committee is mandated to create and monitor plans to support higher ethical standards for public sector employees, including through training programmes, and support CHRAJ in managing compliance with the code of conduct for public officers.

While the CHRAJ has provided training to individuals in some positions identified as being vulnerable to corruption, only the offices of the Auditor General and the Comptroller General have implemented a five-year rotation policy in line with the NACAP. Institutions have the discretion to implement rotation programmes.

The Whistle-blower Act, 2006 (Act 720), protects reporting persons and designates 18 individuals and/or institutions to whom whistle-blowers can file complaints (sect. 3). A whistle-blower's identity must remain confidential subject to criminal sanctions. (sect. 6). The CHRAJ and the EOCO have conducted training courses for staff from designated reporting institutions regarding their obligations under Act 720. It is an offence to fail to report fraud committed against the Government (sect. 96 (1) of the Public Financial Management Act, 2016 (Act 921)).

Public office holders, including judges and prosecutors, must declare their assets and liabilities to the Auditor General before taking office, every four years thereafter and upon leaving their position (arts. 285 and 286 of the Constitution, reiterated in the Public and Political Office Holders (Declaration of Assets and Disqualification) Act 1998 (Act 550) and the Conduct of Public Officers Bill). Asset declarations must be retained for at least five years and are not publicly accessible (sect. 14 of the Conduct of Public Officers Act) and may only be verified upon receipt of a formal complaint. Sanctions for public officers who knowingly submit false or misleading asset declarations or fail to submit such declarations are established under sections 7–9 of the Act.

Public officers must disclose prohibited gifts – for which there is no minimum threshold value – as well as the sources of such gifts to their institution and to the Ghana Revenue Authority (sects. 20 and 22 of the Conduct of Public Officers Act). Public officials, including judges and prosecutors, are not required to declare outside activities or employment, although such activities or employment are prohibited where a conflict of interest arises (sects. 3.4.3, 4.2 and 4.3 of the Guidelines on Conflicts of Interest).

Judges and prosecutors have their own codes of conduct and have received training on both.

The judiciary has an anti-corruption action plan in place. The Public Complaints and Court Inspectorate Unit receives and handles reports of corruption and related complaints. A committee of judges reviews serious cases of alleged judicial corruption and makes recommendations to the Chief Justice or the President (art. 146 of the Constitution).

The Judicial Training Service provides induction training for newly appointed judges, covering the code of conduct and the asset disclosure scheme. An ethics training manual for judges was produced in 2018.

Prosecutors are bound by a specialized code of conduct and a set of standard operating procedures governing case assignments. Individuals dissatisfied with a case

conducted by the police, may appeal prosecutorial decisions to the police, who have a fiat by virtue of an Executive order (Appointment of Public Prosecutors Instrument No. 4 of 1976) to carry out prosecutions on behalf of the Attorney General. Individuals may also petition the Office of the Attorney-General to look into the decision taken by the Police by virtue of the Constitution of Ghana (art. 88(3)). In such circumstances, the Office of the Attorney-General may review the docket and advise the police. Prosecutorial decisions may also be petitioned directly to the Attorney-General (art. 88 (3) of the Constitution).

Ghana is implementing a case tracking system to improve the pace at which cases move through the justice system.

Public procurement and management of public finances (art. 9)

The country's decentralized procurement system comprises over 1,000 entities. Public procurement is regulated by the Public Procurement Act (Act 663), as amended by Act 919, which established the Public Procurement Authority. The Authority manages and implements a procurement information system, maintains a register of procurement entities and a record of prices, and investigates and debars those that have provided false information or offered inducements (sect. 3).

Entities may conduct procurement through competitive tendering, single-source procurement or limited selection determined by a set of criteria (sect. 34A (1)). Justification and prior approval by the Authority's Board is required where competitive tendering is not used (sects. 35 (3), 38 (1) and 40 (1)). Procuring entities may approve tenders up to a maximum value of \$100,000 on their own; higher-value tenders must be approved by an entity committee and either the central or regional tender review committees (sect. 20C of the Second and Third Schedules).

Calls for tenders must contain detailed information, including on opportunities for clarification, the evaluation procedure and the existence of the right of review (sects. 45 and 47–50). Tender invitations must be published in at least two newspapers and on the Authority's website.

Entities must have a procurement unit with a tender committee and, at the stage of evaluation, a tender evaluation panel or a tender review committee (sects. 19 and 20). Final award notifications are to be published on the Authority's website for high-value procurements with a written notice sent to unsuccessful bidders (sect. 65), but no information about the ability to appeal or the appeals process is included in the notices. Unsuccessful bidders must appeal to the head of the entity within 20 days and receive a written decision within 21 days after that, with the subsequent possibility of appealing to the Authority's Board (sects. 79 and 80). The appeals process has a suspensive effect (sect. 82), but unsuccessful bidders may not predicate an appeal solely on the procurement method used. (sect. 78). Ghana has nullified a number of contracts through this procedure.

A code of conduct exists for procurement officials (sect. 85) but does not establish a mechanism for the periodic rotation of staff.

At the time of the country visit, Ghana had piloted an e-procurement system with a view to subsequent expansion and full implementation.

The country has established detailed procedures for the adoption of the national budget and timely reporting requirements on revenue and expenditure pursuant to the Public Financial Management Act, 2016. An annual budget calendar is circulated to all relevant stakeholders, detailing the engagement required for budget preparations, and inputs from civil society are solicited (Financial Administration Regulations, 2004, L.I. 1801).

Act 921 establishes the obligation to submit annual financial reports to the Parliament (sect. 72) and quarterly and annual financial statements to the Controller and Accountant General (sects. 79–80). Annual audits are conducted by the Auditor General and reported to the Parliament, which has the power to make public

recommendations on the basis of such reports. Act 921 requires all government institutions to have audit committees and risk management systems in place (sects. 7, 13 and 86–88).

Ghana adopted an electronic integrated financial management system to preserve the integrity of accounting books, records and financial statements related to public expenditure and revenue, which are maintained for a five-year minimum (sect. 24(3) of Anti-Money Laundering Act, 2008 (Act 749)), and to prevent the falsification of such documents.

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

Any person who seeks information concerning local districts is granted access to such information (sect. 47 of the Local Governance Act, 2016). In addition, a comprehensive Right to Information Bill was enacted in July 2019 (Right to Information Act, Act 989). A Right to Information Commission is also to be established.

Some public institutions, including the CHRAJ and the EOCO, must issue annual reports that are to be considered and discussed publicly (art. 35 of the Constitution). The Right to Information Act, 2019 (Act 989) requires public institutions to compile and publish official information and affords the public the opportunity to request access to information (sect. 18). Any refusal of such a request must state the reason and provide an underlying legal basis (sect. 22 (4)). Public institutions must retain records for five years, after which they are preserved in the National Archives (ss. 1(1), 9 of Public Records and Archival Administration Act, 1997 (Act 535)).

The commission responsible for protecting the privacy and personal data of individuals is mandated to promote awareness of and educate the public on their right to information, including through collaboration with civil society organizations (sect. 47 of the Data Protection Act, 2012 (Act 843)).

Ghana adopted the Open Government Partnership Plan in 2012 in consultation with civil society to increase transparency around public financial management. The country launched the National Public Sector Reform Strategy (2018–2023) to improve public sector performance. The Strategy includes a goal to establish one-stop shops to facilitate timely access to quality services. The Registrar General’s Department is linked to the metropolitan and municipal assemblies on an e-registrar platform to provide a one-stop service for the registration of business operating licences.

The CHRAJ, the Public Services Commission and the Office of the Head of the Civil Service are responsible for ensuring that client service charters are in place in public institutions. Such charters dictate the services available, indicative time frames and relevant procedures. Some institutions have a client service unit. The Ghana Public Service is digitalizing its processes to increase the efficiency of public service delivery and access to information.

The CHRAJ conducts over 1,000 public awareness activities per year in fulfilment of its mandate to educate the public on combating corruption. The Commission’s local offices use community radio stations to conduct outreach. Anti-corruption lessons are taught as part of social studies in junior secondary schools and a human rights training manual, which includes materials on good governance and the fight against corruption, has been made available by CHRAJ to the Ghana Education Service.

Ghana’s Integrity Initiative, the Ghana Chapter of Transparency International, has an advocacy and legal assistance programme to receive complaints regarding both the public and the private sector direct them to law enforcement officials as appropriate.

Private sector (art. 12)

The Companies Act, 1963 (Act 179), as amended by the Companies Act, 2016 (Act 920) and the Companies Act 2019 (992), requires the Registrar General’s Department to maintain a central register and make basic and beneficial ownership

information available to the public, law enforcement agencies and other competent authorities (sect. 331 (A)).

The Ghana Anti-Corruption Coalition, which is formed of a collaborative group of representatives of the State, private sector, civil society and the media, is focused on promoting good governance and fighting corruption. The private sector is represented on the NACAP High-Level Implementation Committee and its Monitoring and Evaluation Committee.

The Ghana Revenue Authority provides an incentive to private entities to report corruption as part of its Informant Reward Scheme as of March 2017: if assets/monies are recovered as a result of the report, a percentage of those assets/monies is provided to the reporting entity/person.

Several private entities have adopted standards and codes of conduct to safeguard integrity. Company directors must avoid conflicts of interest and are civilly liable for breaches of duty (sects. 205–210 of Act 179). Former public officials may not assist or represent any person in a business transaction involving their former office or the State for a minimum of two years after leaving office (sect. 3.6 of the Guidelines on Conflicts of Interest). Institutions may implement longer “cooling-off periods”. Upon leaving office, the President cannot hold any office of profit or emolument without the Parliament’s permission (art. 68 (2) of the Constitution).

Companies must submit audited financial reports, identifying all beneficial owners, to the Registrar General’s Department (sects. 122, 127 and 128 of the Companies Act). Directors are personally liable to potential imprisonment or a fine (sect. 130). The Incorporated Private Partnerships Act, 1962 (Act 152) mandates the proper keeping of accounts and establishes related sanctions (sects. 3, 16, 19 and 20). False statements in tax returns, reports, certificates, accounts or any other document are sanctioned (sect. 321 of the Companies Act; sect. 140 of the Criminal Offences Act, 1960 (Act 29)).

The Companies Act establishes the obligation for entities to maintain a register of their members, that register being subject to inspection (sects. 32 and 33).

The Income Tax Act, 2015 (Act 896), as amended in 2016 by Act 924, does not prohibit the tax deductibility of expenses that constitute bribes. However, they are not included in the exhaustive list of permitted deductions (Schedule 6) and therefore cannot be deducted.

Measures to prevent money-laundering (art. 14)

The prevention of money-laundering is governed by the Anti-Money Laundering Act, 2008 (Act 749), as amended by Act 874 of 2014; the Anti-Money-Laundering Regulations, 2011 (L.I. 1987); the National Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation Policy (2019–2022); and the 2018 revised Anti-Money-Laundering/Combating the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction Guideline for Banks and Non-Bank Financial Institutions, issued by the Bank of Ghana and the Financial Intelligence Centre, along with the mandatory 2018 Anti-Money-Laundering/Combating the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction Administrative Sanctions/Penalties.

The Anti-Money-Laundering Act established the Financial Intelligence Centre with the objective of preventing and combating the transfer of proceeds of unlawful activities (sect. 5). The Centre is a member of the Egmont Group of Financial Intelligence Units.

The Bank of Ghana and the Centre are among the competent authorities responsible for supervising accountable institutions (sect. 22 of the Act), which include banks, non-bank financial institutions and non-financial businesses and persons that provide money or value transfer services (sect. 21).

Accountable institutions must observe due diligence requirements, including customer and beneficial owner identification, the enhanced monitoring of high-risk customers such as politically exposed persons, record-keeping and the reporting of suspicious transactions (sects. 23 and 24). Accountable institutions must make a suspicious transaction report to the Centre within 24 hours for any transfer or transaction which the institution knows or suspects is the proceed of, or related to, unlawful activity (sect. 30).

BOG, CHRAJ, EOCO, FIC and civil society groups cooperate extensively to prevent money-laundering. At the time of the country visit, the Registrar General's Department was implementing an electronic central beneficial ownership register by providing a template on its website. The Department and other key stakeholders had also developed a 15-minute documentary on the benefits of beneficial ownership transparency, which aired on all the major television stations in 2019.

Individuals carrying USD 10,000 or more, or the equivalent in foreign currency, across borders must declare the currency and/or negotiable instrument and amount, its source and the purpose for carrying it to the Bank of Ghana or an authorized agent (sect. 33 of the Anti-Money-Laundering Act; sect. 18 (1) of the Foreign Exchange Act, 2006 (Act 723); BOG Notice No. BG/GOV/SEC/2019/05)). The Anti-Money-Laundering Act establishes sanctions for non-compliance (sect. 39 (k)).

Mobile and electronic banking service providers must apply for and obtain a licence from the Bank of Ghana (sects. 7, 8, 21 and 22 of the Payment System and Services Act, 2019 (Act 987)). Such providers must implement audit controls, conduct customer due diligence and retain records for a minimum of six years (sects. 34, 35 and 52).

Financial institutions that order wire transfers must obtain and maintain originator and beneficiary information, including names and account numbers, and must verify the identity of both (sect. 1.35 of the Bank of Ghana Guideline). Intermediary financial institutions must ensure that such information is maintained and refrain from executing a transfer if it is missing. Beneficiary financial institutions must implement risk-based procedures for assessing transactions with incomplete information.

Ghana is a member of the Intergovernmental Action Group against Money Laundering in West Africa. Following the mutual evaluation based on the 2013 Financial Action Task Force Methodology, the country developed its strategy to counter money-laundering and the financing of terrorism and proliferation in order to address shortcomings within its legislative framework. Its implementation is ongoing.

2.2. Successes and good practices

- The extent of coordination among preventive anti-corruption institutions, including the ability for whistle-blowers to report to any one of the 18 identified individuals or institutions, which then provide feedback to the whistle-blower as to the status of the complaint (art. 6, para. 1 and art. 8, para. 4).
- The requirement that a company's beneficial ownership information must be deposited into a central register that will be available to the public, law enforcement agencies and other competent authorities (arts. 12, para. 2(c) and 52, para. 2(b)).
- The extent of cooperation between the Bank of Ghana, the CHRAJ, the EOCO, the Financial Intelligence Centre and civil society groups to prevent money-laundering (art. 14, para. 1 (b)).

2.3. Challenges in implementation

It is recommended that Ghana:

- Ensure the signing of a memorandum of understanding to establish a coordination mechanism for anti-corruption investigations (art. 6, para. 1).

- Maintain and encourage the further independence of Ghana’s anti-corruption bodies, most notably CHRAJ, and ensure that they have adequate resources to effectively implement their mandates (art. 6, para. 2).
- Endeavour to enhance transparency in public service recruitment and appointment, in particular in relation to senior public officials (categories A and B) (art. 7, para. 1).
- Ensure the ongoing and full implementation of measures outlined in the NACAP, including by: developing adequate procedures for the selection, training and rotation of posts especially vulnerable to corruption (art. 7, para. 1 (b)); establishing and implementing the Ethics Development Centre (art. 7, para. 1); and fully implementing and enforcing the Code of Conduct for Public Officers (art. 8, para. 6)
- Increase transparency in the nomination process for candidates for public office, including by requiring an opportunity to vet and verify nominees before they are announced as potential candidates (art. 7, para. 2).
- Consider setting limits on how much funding a political party and/or candidate may receive in an election campaign (art. 7, para. 3).
- Establish sanctions for cases in which candidates fail to provide an account of their funding to the Electoral Commission (art. 7, para. 3).
- Endeavour to enhance the asset declaration system to ensure that declarations are managed effectively by the receiving office and can be verified without the filing of a formal complaint (art. 8, para. 5).
- Consider strengthening oversight of the decentralized procurement system by expanding the number of monitoring and compliance offices beyond three (art. 9).
- Ensure that unsuccessful bidders are provided with information on how to appeal adverse procurement decisions or violations of the procurement rules (art. 9).
- Continue to fully implement and expand Ghana’s e-procurement system (art. 9).
- Fully implement the Right to Information Act 989 and provide training at the national and district levels in order to raise awareness among the public and among institutions that are to provide information to the public to ensure compliance with the law, and establish the commission to operationalize the Act (art. 10); furthermore, ensure that the NACAP annual institutional implementation reports are regularly made public (art. 10 (c)).
- Consider reviewing and updating the 2009 Code of Conduct for Magistrates and Judges (art. 11, para. 1).
- Review regulations and consider extending conflict-of-interest provisions to other relevant businesses and professions (art. 12, para. 2 (a)).
- Continue to roll out and ensure the implementation of the beneficial ownership register (arts. 12, para., 2(c) and 52, para. 2(b)).
- Ensure the finalization and implementation of the national anti-money-laundering policy (art. 14).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Support for the effective implementation of the NACAP for the remainder of its five-year term including examining gender and corruption and corruption and human rights (arts. 5 and 6).
- Research/data-gathering and analysis in relation to: the mid-term evaluation of the NACAP; assistance to conduct a corruption survey that has not been done

since 2001; and support for an impact assessment of the NACAP at the end of its period (arts. 5 and 6).

- Development of public education and awareness materials to meet the needs of diverse target groups, including children and young people, and skills training for staff to evaluate the NACAP over both the short and long term in order to assess its impact (arts. 5 and 6).
- Capacity-building through the training of relevant staff in negotiation skills (art. 7).
- Institution-building and capacity-building through the training of newly employed staff of the Right to Information Commission in general information management (art. 10).
- Support to strengthen the capacity of relevant national institutions to access, use and implement the Case Tracking System (art. 11).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The Financial Intelligence Centre provides information to other financial intelligence units both spontaneously and upon request and cooperates across the Egmont Secure Web platform. The Attorney General may provide voluntary assistance to a foreign State or entity without prior request (sect. 78 of the Mutual Legal Assistance Act). The Centre collaborates with other international stakeholders and has concluded memorandums of understanding with over 20 foreign counterparts. The EOCO cooperates informally with foreign counterparts and both it and the Ghana Police Service cooperate through the International Criminal Police Organization (INTERPOL). The Ghana Police Service also coordinates with the West African Police Chiefs Committee. Ghana has signed the Economic Community of West African States Convention on Extradition and Convention on Mutual Assistance in Criminal Matters.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Accountable institutions must conduct monitoring for compliance with anti-money-laundering procedures (sect. 41 of the Anti-Money-Laundering Act).

Accountable institutions are required to verify the identity of their customers and take reasonable steps to verify the identity of beneficial owners (regulation 16 of the Anti-Money Laundering Regulations; sect. 1.6. of the Bank of Ghana Guideline). Accountable institutions must further conduct enhanced scrutiny for high-risk customers including domestic and foreign politically exposed persons, their family members and close associates (as defined in sect. 51 (j) of the Anti-Money-Laundering Act (Act 749); sect. 79 of the Office of the Special Prosecutor Act, 2017 (Act 959); regulation 8 of the Anti-Money-Laundering Regulations), conduct “know-your-customer” procedures (sects. 2.0–2.2 of the Bank of Ghana Guideline), and obtain senior management approval before entering into and continuing a business relationship (sect. 23 (5) of the Anti-Money-Laundering Act; regulations 8 and 9 of the Anti-Money-Laundering Regulations; sects. 1.5, 1.6 and 1.11 of the Bank of Ghana Guideline). Administrative penalties and sanctions are applicable in the event of non-compliance (sects. 4 and 5 of the Bank of Ghana Guideline).

The Financial Intelligence Centre is mandated to provide guidance to accountable institutions and supervisory bodies, as evidenced by the Bank of Ghana Guideline developed by the Centre in collaboration with the Bank of Ghana (sect. 6 of the Anti-Money-Laundering Act). Accountable institutions, in consultation with the Centre, must also establish and implement internal rules concerning KYC procedures,

record-keeping and suspicious transaction reports (sect. 40 of the Anti-Money-Laundering Act).

Records concerning customers, transactions and suspicious transaction reports must be maintained for at least five years (sect. 24 of the Anti-Money-Laundering Act; sect. 1.15 of the Bank of Ghana Guideline). Financial institutions may be required to keep records for up to 25 years, depending on the sensitivity of the information.

The Anti-Money-Laundering Act prohibits the establishment of banks with no physical presence and those not affiliated with a regulated financial group (shell banks) (sect. 23 (17)). Banks are not allowed to enter into or continue a correspondent banking relationship with shell banks or with banks that are correspondent banks of such banks (sect. 23 (18) and (19) of the Act; sect. 1.21 of the Bank of Ghana Guideline).

Public office holders are to declare their assets and liabilities to the Auditor General (see information provided in discussion of article 8, paragraph 5, above) Declarations are not a requirement for the close family members or associates of politically exposed persons, and officials are not required to report their signature or other authority over a foreign financial account.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

The Mutual Legal Assistance Act, 2010 (Act 807), the Economic and Organized Crime Office Act, 2010 (Act 804) and the Office of the Special Prosecutor Act govern the direct recovery of property and provide for international cooperation for the purposes of asset confiscation.

Ghana permits other States parties to initiate a civil action in its courts to establish title to or ownership of property acquired through the commission of an offence, but this situation has not yet arisen in practice (sect. 72 of the Economic and Organized Crime Office Act; regulation 30, para. 1, of the Economic and Organized Crime Office Regulations). The definition of a legal person does not distinguish between natural and artificial persons (sect. 3 of the Interpretation Act 2009 (Act 792)). The same sections afford Ghana the capacity to pay compensation or damages to another State Party and recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offense established in accordance with the Convention (*see also* sect 54 of the Economic and Organized Crime Office Act; sect. 58 of the Office of the Special Prosecutor Act).

The Attorney General may apply for an order to restrain or confiscate assets directly on the basis of a foreign request and may register a foreign restraint or confiscation order in court (sects. 55 and 56 of the Mutual Legal Assistance Act). This includes electronic communications (sect. 61).

Non-conviction-based asset forfeiture is possible if a person dies or absconds and a warrant exists for that person's arrest (sect. 50 of the Economic and Organized Crime Office Act). A court may confirm a freezing order made by the EOCO if it is satisfied that the individual is being investigated for a serious offence (sect. 35). The CHRAJ has the power to initiate non-conviction-based asset forfeiture of wealth or property illegally acquired by public officials (art. 287 of the Constitution).

The Financial Intelligence Centre can immediately freeze accounts for up to seven days without a court order (sect. 47 of the Anti-Money-Laundering Act). The EOCO has the power to freeze and seize property without a judicial order for 14 days, after which the court must confirm the action within certain time limits (sects. 24 and 33 of the Economic and Organized Crime Office Act). The EOCO manages seized property, while confiscated cash is put into a profit-yielding account.

Although this has not yet occurred, Ghana may receive requests to freeze accounts via the Egmont Group.

The country reported several successful confiscation cases, a number of which involved mutual legal cooperation with foreign jurisdictions in relation to property in Ghana. Content requirements are set out in sect. 55 of the Anti-Money-Laundering Act and sects. 51 and 56 of the Economic and Organized Crime Office Act. While the country does not require a treaty in order to provide assistance for confiscation purposes (sect. 1 of the Mutual Legal Assistance Act), Ghana would consider the Convention a legal basis for asset recovery cooperation. It has concluded over 160 bilateral treaties.

The rights of bona fide third parties are legally protected (sects. 47 and 54 of the Economic and Organized Crime Office Act; sect. 58 of the Office of the Special Prosecutor Act). Notice to interested parties is required in the case of foreign restraint or confiscation orders and interested parties may receive payment of damages in relation to registration of such orders (sect. 60 of the Mutual Legal Assistance Act). A victim (whether a legal or natural person), a personal representative of a victim or the EOCO may apply to the court for a compensation order for a victim of a serious offence (subregulation 30 of the Economic and Organized Crime Office Regulations 2012).

Ghana provides notice to a foreign State before lifting any provisional measures (sect. 55).

Return and disposal of assets (art. 57)

Ghana can return confiscated property (sect. 64 of the Mutual Legal Assistance Act; sect. 31 of the Economic and Organized Crime Office Act). The CHRAJ can request the return of seized and confiscated assets to a foreign country (art. 287 of the Constitution). Ghana can share with a foreign country a proportion of the proceeds recovered, including in the case of embezzled funds, in accordance with the proportion that the Republic in consultation with the foreign State considers appropriate in the circumstances (secs. 63–64); however, there is no legal requirement to do so (sects. 63 and 64 of the Mutual Legal Assistance Act). There is no legal requirement to consider the rights of bona fide third parties upon the return of assets. While Ghana can provide for the return of property to the legitimate owners or to compensate victims of a crime, it has not yet done so. The country may deduct expenses incurred in the return of confiscated property and in practice decide upon consultation with the other State (sect. 64 (5) of the Mutual Legal Assistance Act).

3.2. Successes and good practices

- The requirement that a company's beneficial ownership information must be deposited into a central register that will be available to the public, law enforcement agencies and other competent authorities (arts. 12, para. 2(c) and 52, para. 2(b)).

3.3. Challenges in implementation

It is recommended that Ghana:

- Establish coherence between different regulations regarding the definition of politically exposed persons (art. 52, para. 1).
- Continue to roll out and ensure the implementation of the beneficial ownership register (arts. 12, para. 2(c) and 52, para. 2(b)).
- May wish to consider also establishing a national bank account register to further facilitate successful investigations (art. 52, para. 2 (a) and (b)).
- May wish to consider retaining records by financial institutions beyond five years as Ghana has no statute of limitations for crimes, and records may prove useful in future investigations and prosecutions (art. 52, para. 3).

- Implement a verification procedure for asset declarations and, if necessary, amend the Constitution in that respect; furthermore, establish an electronic asset declaration system (art. 8, para. 5 and art. 52, para. 5).
- Take measures to require appropriate public officials who have an interest in or signature or other authority over a foreign financial account to report that relationship to the appropriate authorities and maintain appropriate records (art. 52, para. 6).
- Consider establishing a de minimis value for complying with requests for mutual legal assistance (art. 55, para. 7).
- Ensure that the rights of bona fide third parties are taken into account when returning confiscated property (art. 57, para. 2).
- Ensure that confiscated property is returned to a requesting State in accordance with article 57, paragraph 3, including in cases in which an agreement or arrangement would allow for the sharing of assets (art. 57, paras. 3 and 5).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building and training for prosecutors on the tracing and tracking of assets (art. 54).
 - Capacity-building and training for the Asset Recovery and Management Office of the EOCO to manage restrained assets for and on behalf of domestic law enforcement agencies (art. 54).
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