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State of implementation of the United Nations

Convention against Corruption

Implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption

Regional supplement

Thematic report prepared by the Secretariat

Summary

The present report complements the thematic report on the implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption ([CAC/COSP/IRG/2023/9](#)). Excluding cross-cutting issues that overlap with chapter II, it provides a regional analysis of the implementation of articles 51, 53 to 57 and 59 of the Convention by States parties under review in the second cycle of the Mechanism for the Review of Implementation of the Convention.



I. Introduction, scope and structure

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, the present report contains supplementary information, organized by geographical region, to the thematic report on the implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption (CAC/COSP/IRG/2023/9). It provides an overview of successes, good practices, challenges and observations in relation to the implementation of articles 51, 53 to 57 and 59 of the Convention.¹

2. The structure of the present report follows that of the executive summaries by clustering closely related articles and topics. Data on and a detailed analysis of cross-cutting issues of chapter V that overlap with chapter II of the Convention, namely, asset declarations, financial disclosure systems and prevention of conflicts of interest (art. 7, para. 4; art. 8, para. 5; and art. 52, paras. 5 and 6); beneficial ownership identification (art. 12, para. 2 (c); art. 14, para. 1 (a); and art. 52, para. 1); and measures to prevent money-laundering, the prevention and detection of transfers of proceeds of crime, and financial intelligence units (arts. 14, 52 and 58), are provided in the thematic report on the implementation of provisions of a cross-cutting nature in chapter II (Preventive measures) and chapter V (Asset recovery) of the United Nations Convention against Corruption (CAC/COSP/IRG/2023/10) and the regional supplement thereto (CAC/COSP/IRG/2023/10/Add.1).

3. The present report is based on information contained in the finalized executive summaries and country review reports for the 72 second cycle reviews that had been completed as at 31 May 2023, including 24 reviews completed for Asia-Pacific States, 20 for African States, 13 for Western European and other States, 8 for Latin American and Caribbean States and 7 for Eastern European States. In order to provide a basis for the analytical work of the Implementation Review Group, and with due regard to the discrepancy in number of States per region, the analysis contained in the present report is related to the number of executive summaries finalized in each regional group. Graphs are used to facilitate a visual representation of the data. The report does not purport to be comprehensive, but instead endeavours to provide a summary of the information available in the country reviews completed under the second review cycle.

II. Implementation at the regional level of chapter V (Asset recovery) of the United Nations Convention against Corruption

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

1. General provision (art. 51)

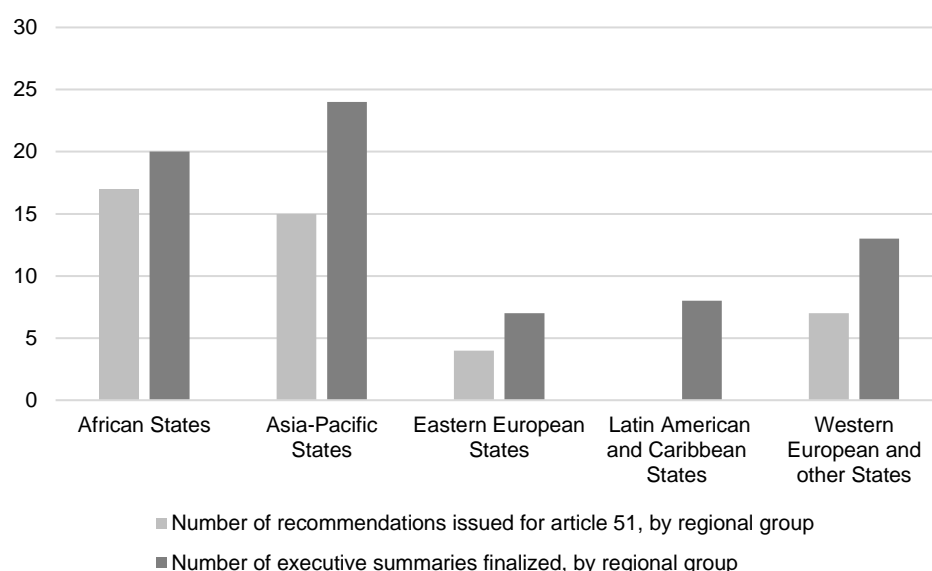
4. A total of 43 recommendations were issued to 35 States parties with respect to the implementation of article 51 of the Convention, concerning the fundamental principle of asset recovery and the existence of regulatory, institutional and operational frameworks in relation thereto. Information disaggregated by regional group can be found in table 1 and figure I, below.

¹ In line with the outcome of the discussions of the Implementation Review Group, thematic reports and reports on implementation at the regional level are no longer anonymized. Countries used as illustrative examples of good practices have therefore been identified throughout the report.

Table 1
Recommendations issued with regard to the implementation of article 51, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	12	17	60
Asia-Pacific States	24	13	15	54
Eastern European States	7	4	4	57
Latin American and Caribbean States	8	0	0	0
Western European and other States	13	6	7	46

Figure I
Number of finalized executive summaries and recommendations issued for article 51, by regional group



5. The proportion of States in each regional group receiving recommendations for article 51 ranged from 46 to 60 per cent for all groups except for Latin American and Caribbean States, for which no challenges in implementation were identified.

6. The recommendations issued to African States most commonly related to the adoption of legislation to enable mutual legal assistance in the area of asset recovery. Similar challenges were noted among Asia-Pacific States, in addition to the need to streamline procedures and strengthen mechanisms for asset recovery. Among Western European and other States, reviewers most frequently highlighted the need to enhance data collection systems and the availability of comprehensive information and statistics on mutual legal assistance requests relating to asset recovery. For Eastern European States, the recommendations included the creation of a comprehensive system for the effective management of assets, the adoption of measures to clarify the practical aspects of asset recovery, the clarification of institutional roles in the asset recovery process and the adoption of legislation on mutual legal assistance in accordance with the Convention.

Good practices in relation to article 51

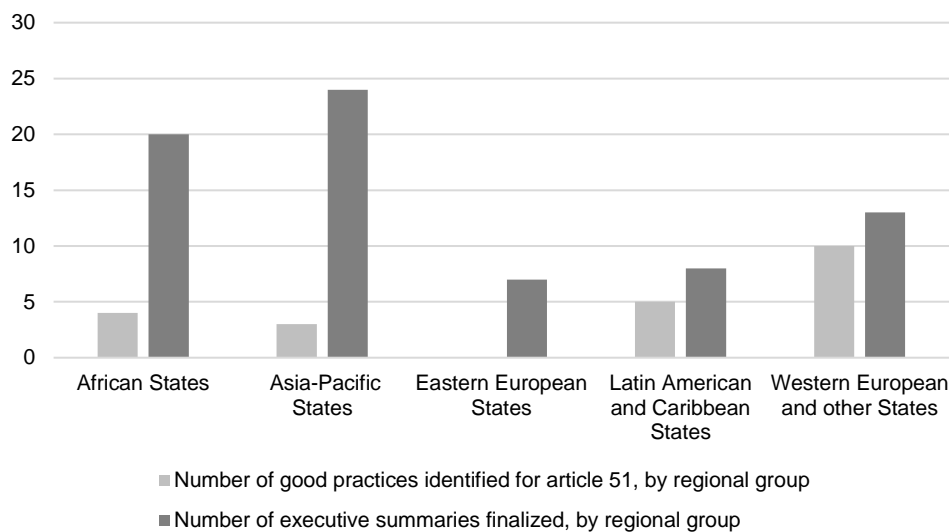
7. A total of 23 good practices regarding the return of assets pursuant to article 51 of the Convention were identified in 15 States parties in all regions except for Eastern European States (see figure II). A common good practice identified among Latin American and Caribbean States and Western European and other States was the

establishment of dedicated agencies or units for international cooperation in the recovery of assets.

8. Among the good practices identified in Western European and other States, reviewers highlighted the establishment of specialized entities or roles to facilitate international cooperation, including in relation to asset recovery procedures, in Belgium, France, Ireland and Norway. The good practices identified in African States included the number of asset recovery cases successfully initiated by Nigeria on the basis of bilateral agreements and reciprocity, and the willingness and readiness of that State to share its experiences in various international forums, in particular in the area of asset recovery. In South Africa, reviewers commended the management of asset recovery requests received through informal channels. Among Asia-Pacific States, reviewers commended Sri Lanka for the provision of sample forms for mutual legal assistance requests, as well as the establishment of a task force to coordinate efforts to investigate, identify, trace, seize and transfer State assets and revenue. A good practice identified in Latin American and Caribbean States concerned the review by Mexico of draft mutual legal assistance requests prior to their formal submission.

Figure II

Number of finalized executive summaries and good practices identified for article 51, by regional group



2. Spontaneous transmission of information (art. 56)

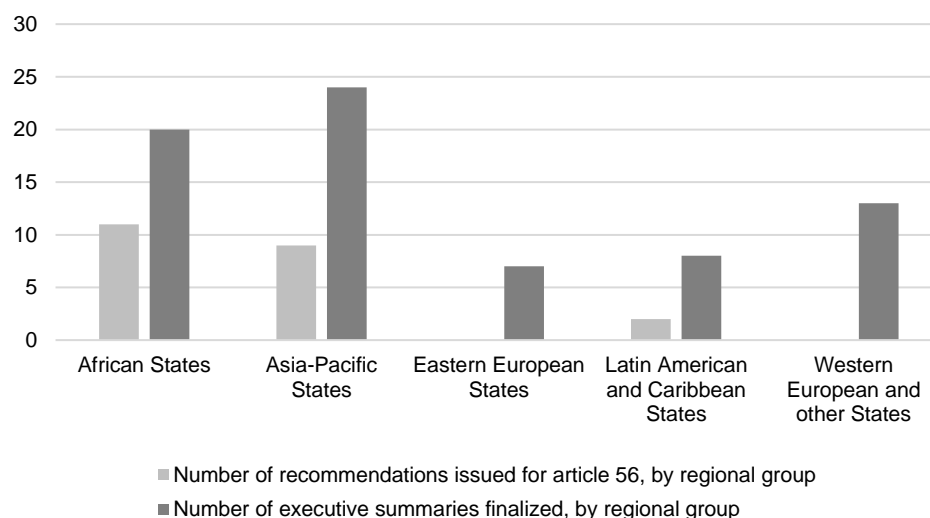
9. A total of 22 challenges were identified for 21 States parties in the implementation of article 56, on the spontaneous transmission of information. Relevant data, disaggregated by regional group, can be found in table 2 and figure III, below.

Table 2

Recommendations issued with regard to the implementation of article 56, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	10	11	50
Asia-Pacific States	24	9	9	38
Eastern European States	7	0	0	0
Latin American and Caribbean States	8	2	2	25
Western European and other States	13	0	0	0

Figure III
Number of finalized executive summaries and recommendations issued for article 56, by regional group

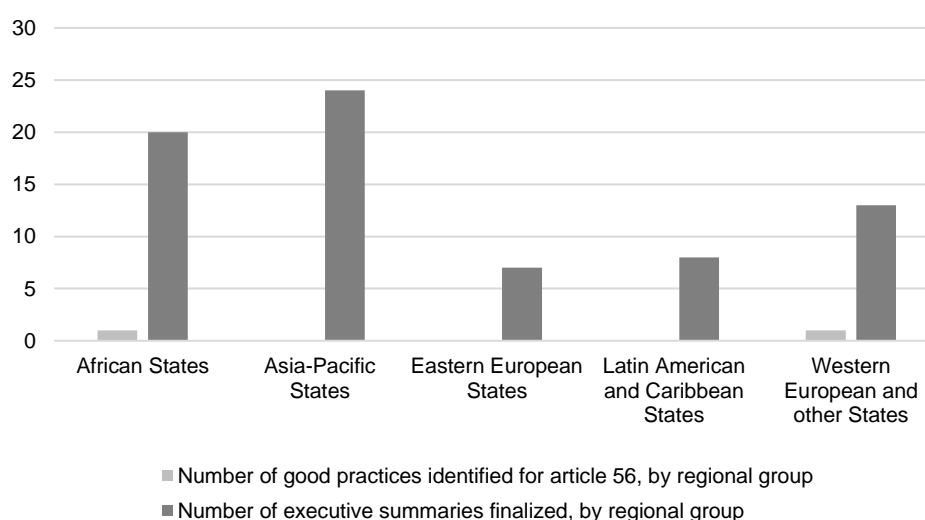


10. Of the 21 challenges pertaining to the need to enable the spontaneous and proactive sharing of information with international counterparts, most were identified in African States (10) and Asia-Pacific States (9), with two also identified in Latin American and Caribbean States.

Good practices in relation to article 56

11. Reviewers identified two good practices with regard to the implementation of article 56 in one African State and one Western European and other State. In South Africa, reviewers noted the posting of liaison officers to other jurisdictions to facilitate requests for mutual legal assistance, including in asset recovery cases. In Portugal, they highlighted the spontaneous sharing of information with a wide number of counterparts, which had led to concrete cases of successful asset freezing.

Figure IV
Number of finalized executive summaries and good practices identified for article 56, by regional group



3. Bilateral and multilateral agreements and arrangements (art. 59)

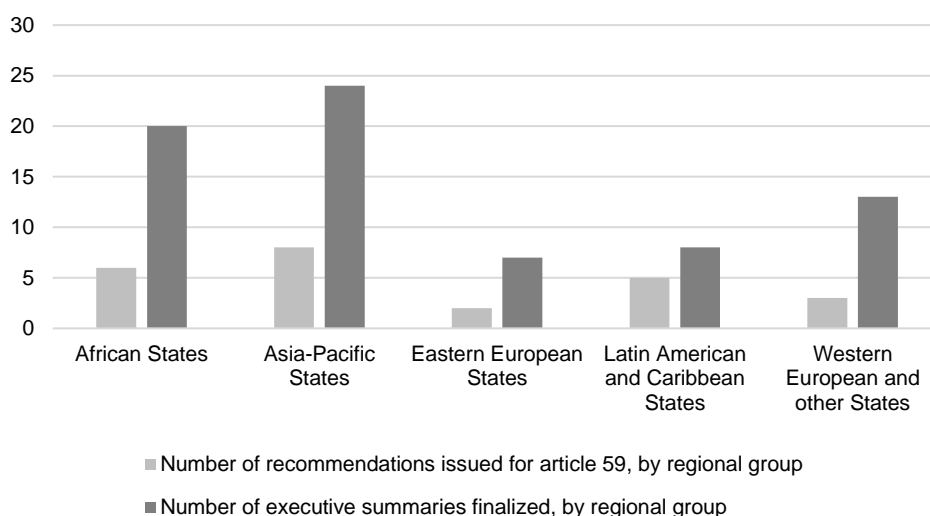
12. Twenty-four challenges in implementation were identified for the same number of States parties in relation to article 59 of the Convention, on agreements or

arrangements to enhance international cooperation undertaken pursuant to chapter V. Relevant data, disaggregated by regional group, can be found in table 3 and figure V, below.

Table 3
Recommendations issued with regard to the implementation of article 59, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	6	6	30
Asia-Pacific States	24	8	8	33
Eastern European States	7	2	2	29
Latin American and Caribbean States	8	5	5	63
Western European and other States	13	3	3	23

Figure V
Number of finalized executive summaries and recommendations issued for article 59, by regional group

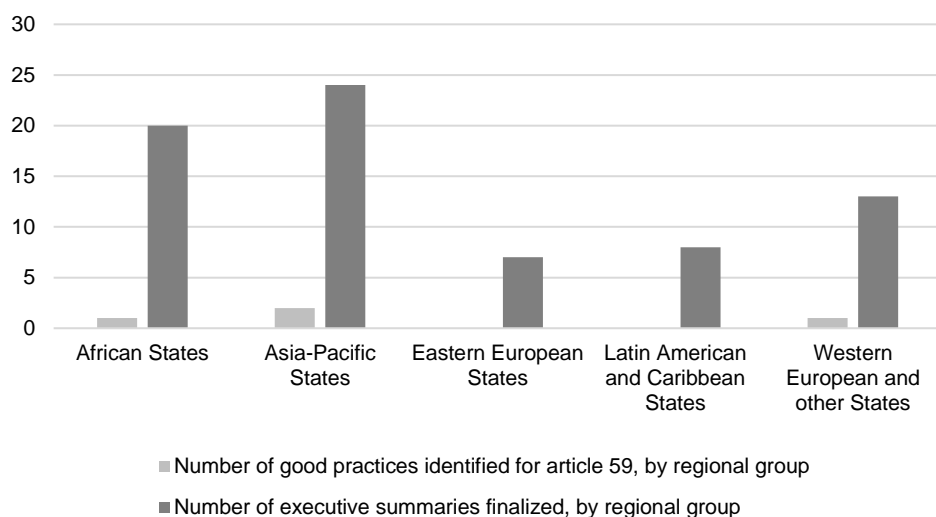


13. Latin American and Caribbean States received the proportionally highest number of recommendations with regard to the implementation of article 59. Whereas challenges relating to article 59 were identified in less than one third of States in all other regions, five of the eight Latin American and Caribbean States for which second cycle reviews had been completed received recommendations to consider concluding specific agreements or arrangements with other States to increase the effectiveness of international cooperation in asset recovery. In Asia-Pacific States, recommendations more frequently related to the use of the Convention as a legal basis for mutual legal assistance and international cooperation for purposes of confiscation and asset recovery.

Good practices in relation to article 59

14. Good practices were identified with regard to the implementation of article 59 in two Asia-Pacific States, one African State and one State of the Western European and other States. The use of networks or memorandums of understanding was highlighted by reviewers in Indonesia, Mongolia and Italy. In Burkina Faso, reviewers noted the use of the Convention by the anti-corruption agency in its exchanges with foreign counterparts.

Figure VI
Number of finalized executive summaries and good practices identified for article 59, by regional group



B. 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)

1. Direct recovery of property (art. 53)

15. A total of 76 recommendations were issued to 39 States parties with respect to article 53 of the Convention, on measures for direct recovery of property. Relevant data, disaggregated by regional group, can be found in table 4 and figure VII, below. Figure VIII provides an overview of the number of recommendations issued with regard to the implementation of each subparagraph of article 53.

Table 4
Recommendations issued with regard to the implementation of article 53, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	14	24	70
Asia-Pacific States	24	14	31	59
Eastern European States	7	3	5	43
Latin American and Caribbean States	8	5	12	63
Western European and other States	13	3	4	23

Figure VII
Number of finalized executive summaries and recommendations issued for article 53, by regional group

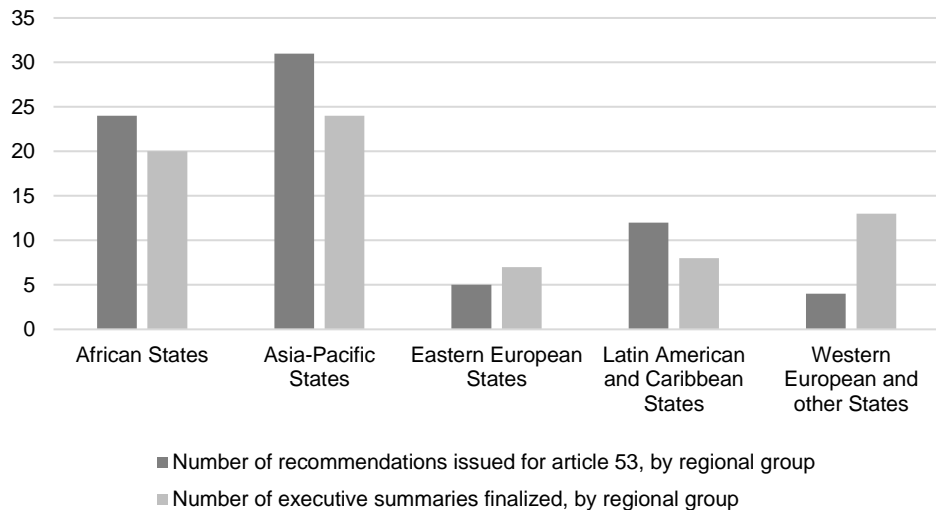
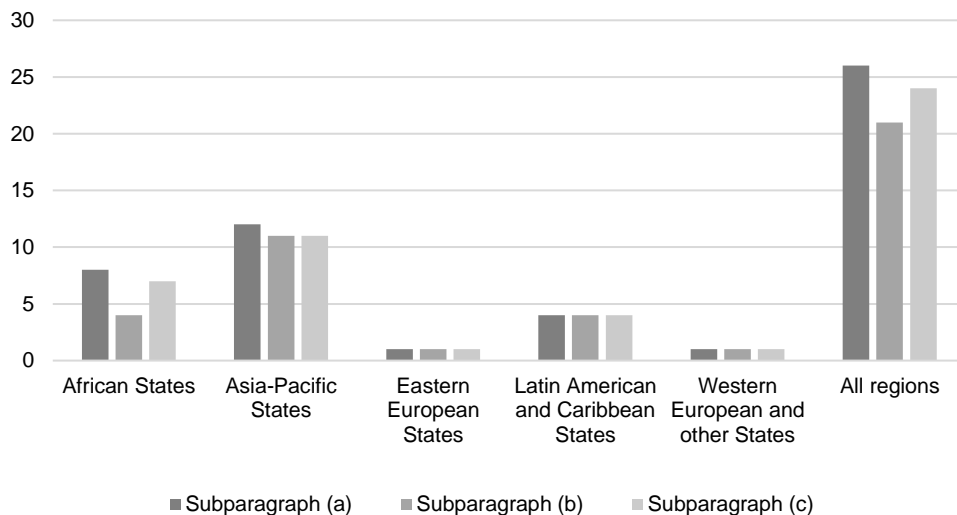


Figure VIII
Number of recommendations issued with regard to the implementation of each subparagraph of article 53, by regional group and in total



16. African States received the proportionally highest number of recommendations relating to article 53, with 70 per cent of the 20 African States whose reviews had been finalized receiving recommendations. Challenges were identified for a total of 63 per cent of Latin American and Caribbean States, followed by Asia-Pacific States, with 58 per cent, Eastern European States, with 43 per cent, and Western European and other States, with 23 per cent. The recommendations addressed to African States and Asia-Pacific States more frequently related to the adoption of clear legislative provisions with a view to ensuring that other States parties could initiate civil action for damages and to establishing title to or ownership of property acquired through the commission of an offence, while the recommendations issued to Latin American and Caribbean States, Eastern European States and Western European and other States more often referred to the need to monitor the application and interpretation by the judiciary of existing legislation, with legislative reform recommended if necessary.

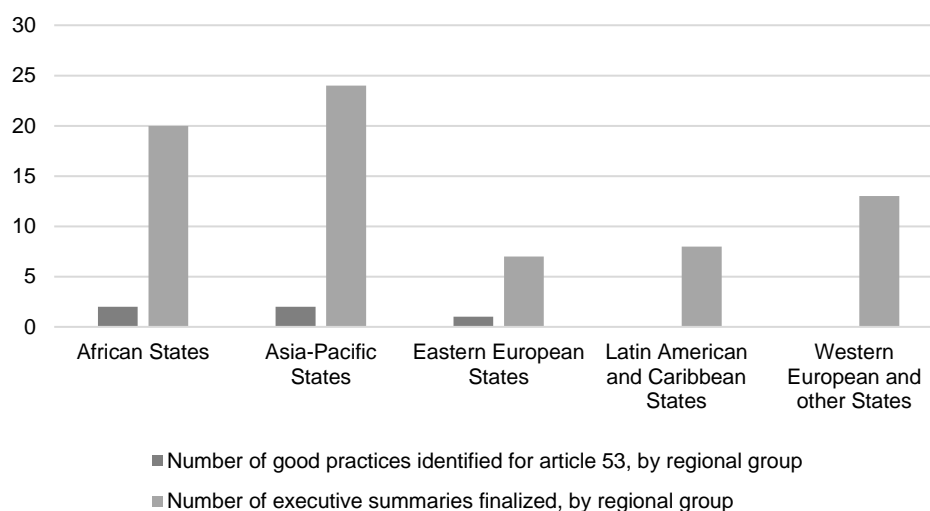
Good practices in relation to article 53

17. Good practices in the implementation of article 53, on measures for direct recovery of property, were identified in two African States, two Asia-Pacific States

and one Eastern European State. In Cabo Verde and Senegal, reviewers highlighted that the Code of Civil Procedure granted foreign States the same status as any other legal person. Reviewers similarly noted, in the Russian Federation and Pakistan, the granting to foreign States of the right to initiate civil action.

Figure IX

Number of finalized executive summaries and good practices identified for article 53, by regional group



2. Recovery of property through international cooperation in confiscation (arts. 54 and 55)

18. In relation to articles 54 and 55, on the recovery of property through international cooperation in confiscation, reviewers issued a total of 260 recommendations to 63 States, corresponding to 88 per cent of all 72 reviewed States. Of those recommendations, 150 related to the legal framework established under article 54, and 110 related to the practices established under article 55. Relevant data, disaggregated by regional group, can be found in tables 5 and 6 and figures X to XIII, below. Figures XI and XIII provide an overview of the number of recommendations issued with regard to the implementation of each subparagraph of article 54 and paragraph of article 55.

Table 5

Recommendations issued with regard to the implementation of article 54, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	15	48	75
Asia-Pacific States	24	19	60	79
Eastern European States	7	6	15	86
Latin American and Caribbean States	8	6	19	75
Western European and other States	13	5	8	38

Figure X
Number of finalized executive summaries and recommendations issued for article 54, by regional group

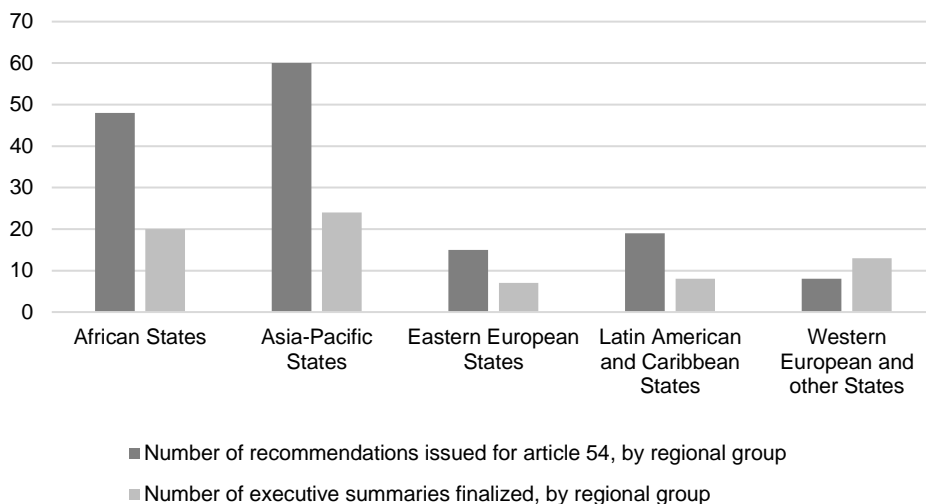


Figure XI
Number of recommendations issued with regard to the implementation of each subparagraph of article 54, by regional group and in total

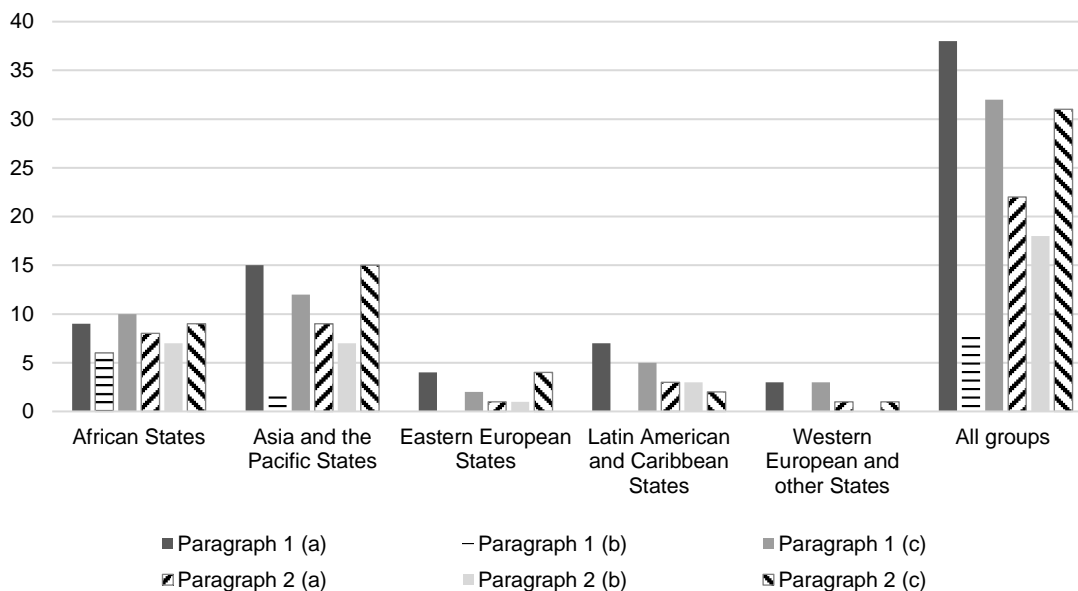


Table 6
Recommendations issued with regard to the implementation of article 55, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States the group that received recommendations</i>
African States	20	16	32	80
Asia-Pacific States	24	17	46	71
Eastern European States	7	6	14	86
Latin American and Caribbean States	8	5	8	63
Western European and other States	13	6	10	46

Figure XII
Number of finalized executive summaries and recommendations issued for article 55, by regional group

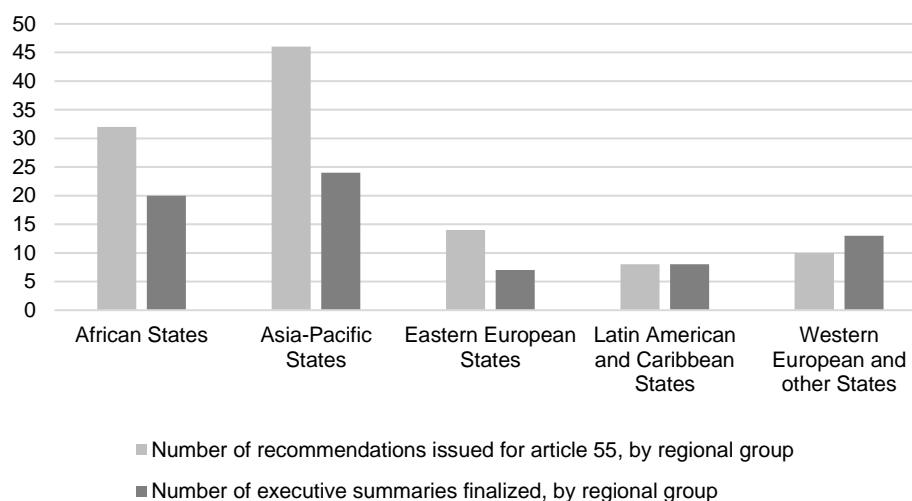
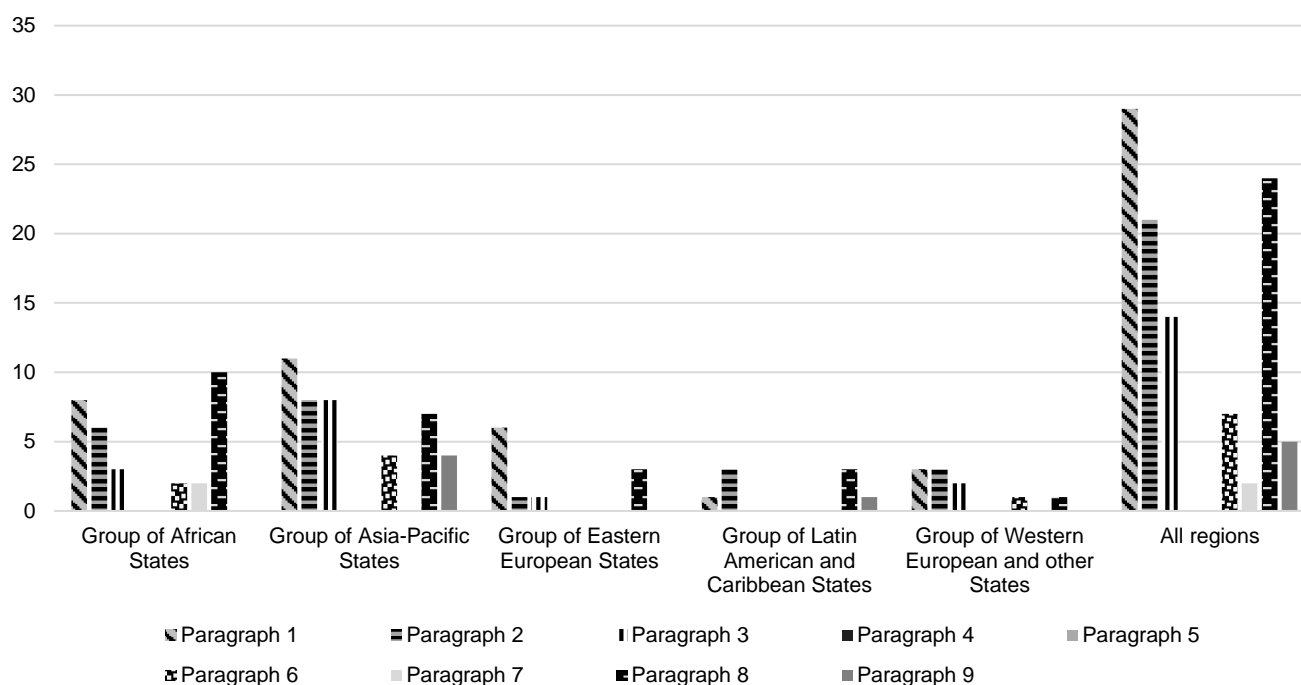


Figure XIII
Number of recommendations issued with regard to the implementation of each paragraph of article 55, by regional group and in total



(i) *Confiscation through adjudication of money-laundering offences (art. 54, para. 1 (b))*

19. No particular regional trends were identified with regard to confiscation through adjudication of money-laundering offences.

(ii) *Confiscation without a criminal conviction (art. 54, para. 1 (c))*

20. Of the 31 recommendations issued in relation to enabling mutual legal assistance for non-conviction-based confiscation, over one third (11) were made to Asia-Pacific States, almost one third (9) were made to African States, 5 were made to Latin American and Caribbean States, and 3 were made to Western European and

other States. No regional trends were observed with regard to the content of the recommendations.

(iii) *Enforcement of foreign confiscation orders and foreign requests for confiscation (art. 54, para. 1 (a), and art. 55, para. 1)*

21. Thirty-four States across all regions received recommendations on the legal framework enabling the direct enforcement of foreign confiscation orders in accordance with article 54, paragraph 1 (a), and the practical application thereof in line with article 55, paragraph 1. No particular regional trends were identified with regard to either.

(iv) *Enforcement of foreign freezing or seizure orders or interim measures based on foreign requests (art. 54, para. 2, and art. 55, para. 2)*

22. Twenty States across all regions received recommendations on the legal framework enabling freezing and seizure or other interim measures in line with article 54, paragraph 2, and article 55, paragraph 2. Most challenges were identified with regard to the latter and related to the taking of measures for the identification, tracing, freezing and seizure of proceeds of crime for subsequent confiscation. No particular regional trends were identified.

(v) *Additional measures for preservation of property (art. 54, para. 2 (c))²*

23. Reviewers identified challenges in implementation with regard to article 54, paragraph 2 (c), on the adoption of measures for the preservation of property without a specific request, for States parties across all regions.

(vi) *Prerequisites for and required content of mutual legal assistance requests (art. 55, paras. 3 and 4)*

24. No regional trends were observed in relation to paragraphs 3 and 4 on the prerequisites for and required content of mutual legal assistance requests, with States parties across all regions except Latin America and the Caribbean receiving recommendations with regard to the provision of legislative or administrative specifications concerning the required format and content of mutual legal assistance requests or the adoption of an asset recovery handbook or other guidance for requesting States.

(vii) *Grounds for refusal of mutual legal assistance requests (art. 55, paras. 4 and 7)*

25. With regard to the grounds for refusal of mutual legal assistance requests, two African States received recommendations to consider establishing a de minimis value for complying with requests for mutual legal assistance and to consider putting in place comprehensive domestic legislation to prescribe necessary substantive and procedural requirements for mutual legal assistance, including clear grounds for refusal. One Asia-Pacific State received a recommendation to adopt legislative measures to comprehensively regulate, the procedure for making requests, the required content of requests, grounds for refusal and other procedural aspects.

(viii) *Consultation with requesting party (art. 55, para. 8)*

26. With regard to article 55, paragraph 8, on consultation with the requesting State party prior to the lifting of provisional measures, recommendations issued to African

² The management of seized or confiscated assets was reviewed under the first cycle and is not covered by the scope of second cycle reviews. A more in-depth analysis of the topic can be found in thematic reports related to the first review cycle, namely, the report on the implementation of chapter III (Criminalization and law enforcement) of the United Nations Convention against Corruption (review of articles 30–42) (CAC/COSP/IRG/2016/7) and the report on the regional implementation of chapter III (Criminalization and law enforcement) and chapter IV (International cooperation) of the United Nations Convention against Corruption (CAC/COSP/IRG/2016/5).

States and Asia-Pacific States most frequently referred to the amendment of legislation for that purpose. In contrast, in Eastern European States, Latin American and Caribbean States and Western European and other States, reviewers more frequently referred to the need to ensure that the requesting State party was given the opportunity in practice to present its reasons in favour of continuing provisional measures.

Good practices in relation to article 54

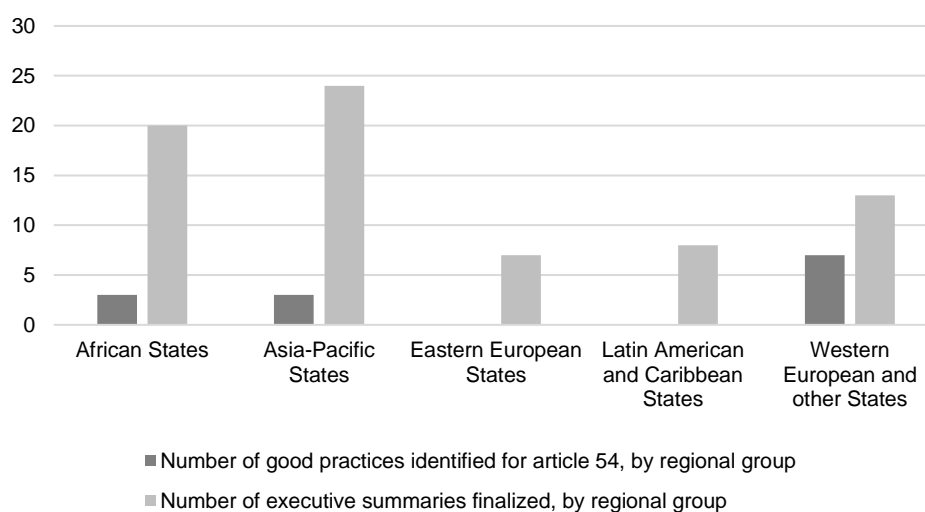
27. Good practices in relation to article 54 were identified in seven Western European and other States, three African States and three Asia-Pacific States.

28. Five of the good practices related to the implementation by States parties of article 54, paragraph 1 (c), on enabling mutual legal assistance for non-conviction-based confiscation. Reviewers identified such good practices in six States parties across three regions, in Cyprus, Micronesia (Federated States of), Ireland, Italy, Mauritius and Solomon Islands.

29. Other good practices related to the enforcement of foreign seizure, freezing and confiscation orders, including the detailed and comprehensive legislation on this matter in one Western European State. Also in Western Europe, reviewers noted that domestic freezing orders had been issued without a foreign court order, on the basis of a mutual legal assistance request or media reports, without the requirement that such requests pass through diplomatic channels in one State, and that authorities in another State could act on information provided by foreign law enforcement to commence domestic proceedings against property that was the proceeds of a foreign indictable offence. In one Asia-Pacific State, reviewers commended the legal provision that a certificate issued by an appropriate foreign authority stating that a foreign forfeiture order was in force and was not subject to appeal must be admitted as evidence by a court without further proof. Only one good practice was identified with regard to the preservation of property (art. 54, para. 2 (c)), in a Western European and other State that could preserve property voluntarily without a specific request from another State party.

Figure XIV

Number of finalized executive summaries and good practices identified for article 54, by regional group



30. Good practices in the implementation of article 55 were identified in nine States parties, including three African States, three Asia-Pacific States and three Western European and other States.

31. Good practices in the implementation of article 55, paragraph 2, on measures to identify, trace, seize and freeze proceeds of crime following a mutual legal assistance request included the existence of specialized structures to facilitate the recovery and

return of assets in South Africa, and the establishment of a dedicated platform for the identification of criminal assets and the existence of a centralized bank register in France.

32. With regard to article 55, paragraph 3, on the content of mutual legal assistance requests, good practices included the flexibility of the Mutual Legal Assistance in Criminal Matters Act of Malaysia, which allowed the country to fulfil any request in the manner the requesting State wished, as well as the provision of detailed guidance and model request forms aimed at facilitating the provision of assistance. In the United Kingdom, reviewers underscored the placing of specialist advisers in priority countries to assist with mutual legal assistance, extradition and European arrest warrants, or as criminal justice and asset recovery advisers.

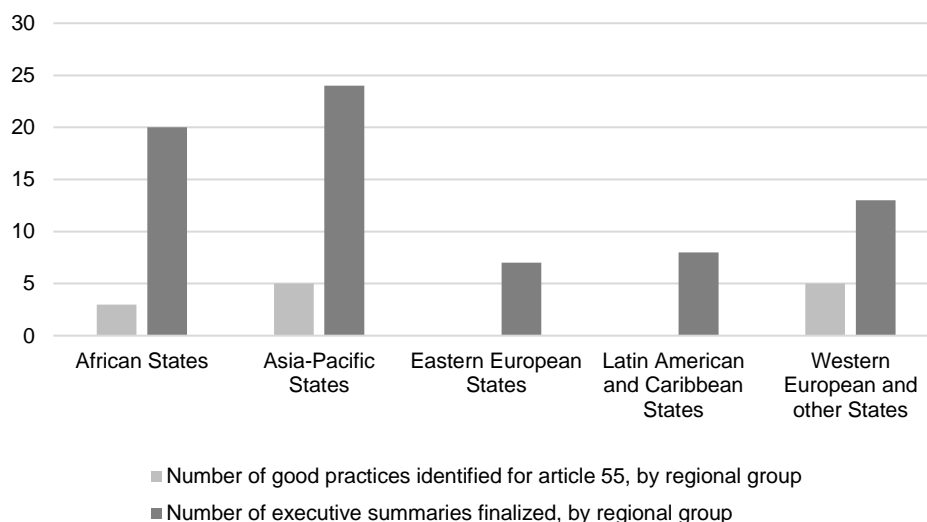
33. With respect to article 55, paragraph 6, concerning consideration of the Convention as a basis for mutual legal assistance in the area of asset recovery, reviewers noted past use by Liechtenstein and Mozambique of the Convention as the basis for granting mutual legal assistance requests. In Nauru, reviewers highlighted that cooperation for purposes of confiscation was not conditional on the existence of a treaty.

34. With regard to article 55, paragraph 8, on the consultation of requesting States prior to the lifting of provisional measures, reviewers commended Malaysia for its continuous consultation with requesting States and its practice of not refusing requests but of closing cases provisionally until additional information or evidence had been received from requesting States. In Saudi Arabia, reviewers noted the provision of informal assistance with reviewing requests for mutual legal assistance prior to their formal submission, and consultation with requesting States as a matter of practice before rejecting or deferring requests.

35. One good practice was noted in relation to article 55, paragraph 9, concerning the rights of bona fide third parties, with reviewers highlighting that the interests of such parties were explicitly protected by legislation in South Sudan.

Figure XV

Number of finalized executive summaries and good practices identified for article 55, by regional group



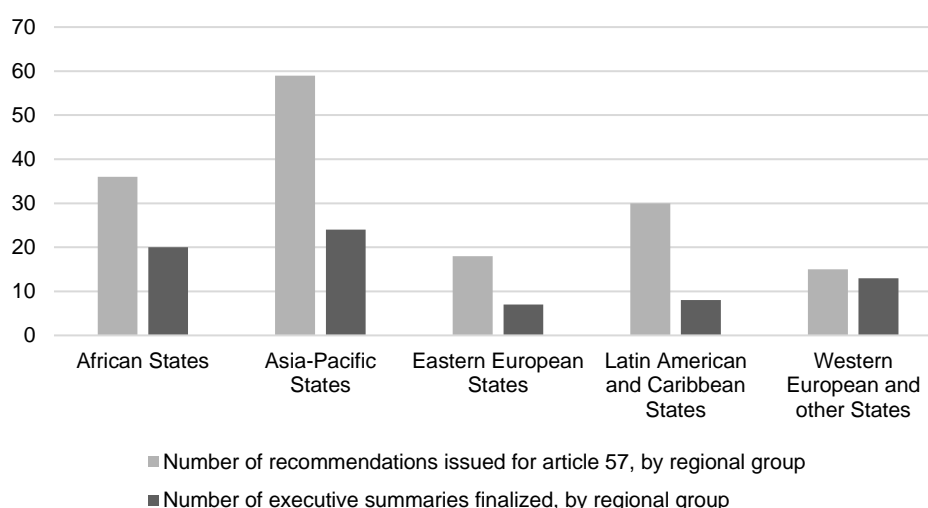
C. Return and disposal of assets (art. 57)

36. A total of 158 recommendations were issued to 60 States with regard to article 57 of the Convention, on the return and disposal of assets. Relevant data, disaggregated by regional group, can be found in table 7 and figure XVI, below. Figure XVII provides an overview of the number of recommendations issued with regard to the implementation of each paragraph of article 57.

Table 7
Recommendations issued with regard to the implementation of article 57, by regional group

	<i>Number of States with completed reviews</i>	<i>Number of States that received recommendations</i>	<i>Total number of recommendations received</i>	<i>Percentage of States in the group that received recommendations</i>
African States	20	15	36	75
Asia-Pacific States	24	22	59	92
Eastern European States	7	7	18	100
Latin American and Caribbean States	8	8	30	100
Western European and other States	13	8	15	62

Figure XVI
Number of finalized executive summaries and recommendations issued for article 57 of the Convention, by regional group

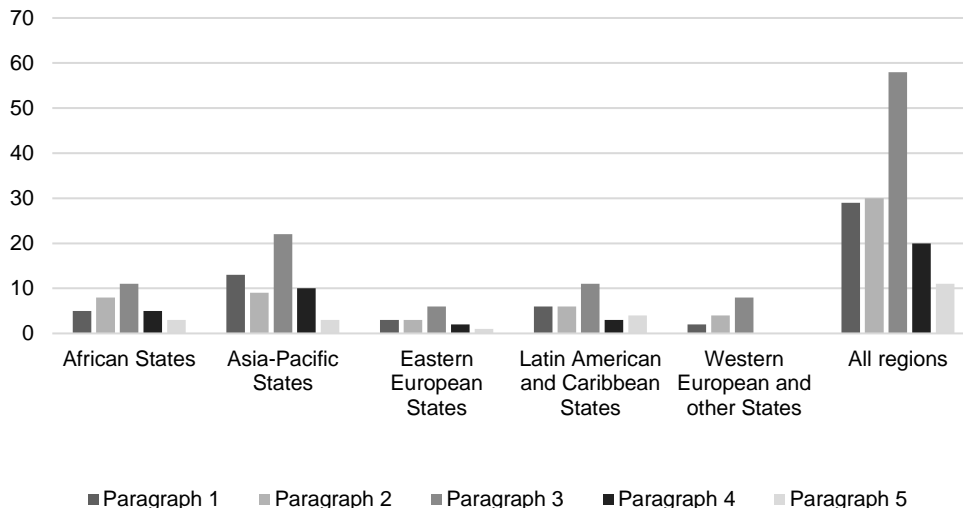


37. As noted in the thematic report on the implementation of chapter V (Asset recovery) of the United Nations Convention Against Corruption (CAC/COSP/IRG/2023/9), reviewers identified gaps in implementation in the majority (83 per cent) of the 72 States reviewed under the second cycle. All Eastern European States and Latin American and Caribbean States received recommendations in relation to article 57, followed by 22 of the 24 Asia-Pacific States, 15 of the 20 African States and 8 of the 13 Western European and other States reviewed.

38. Almost all recommendations addressed to Western European and other States referred to the adoption of legislative and other measures to ensure that confiscated assets be disposed of in accordance with the Convention. The only recommendation in that group that was not related to ensuring that legislation enabled the return and disposal of assets related to the establishment of a centralized e-platform to enhance the management and return of confiscated assets.

39. In contrast, although the majority of recommendations for other regional groups also referred to the adoption of legislative and other measures to ensure that confiscated assets be disposed of in accordance with the Convention, there were also recommendations as varied as the establishment of asset management units or entities and the development of asset recovery guides. Most notably, 19 States parties, including 11 Asia-Pacific States, 5 African States and 3 Latin American and Caribbean States received recommendations on the regulation of reasonable expenses in line with article 57, paragraph 4.

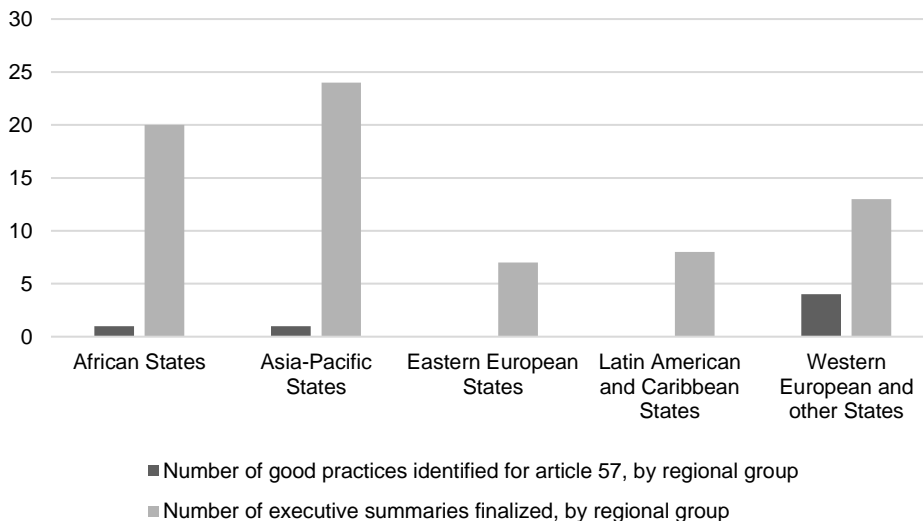
Figure XVII
Number of recommendations issued with regard to the implementation of each paragraph of article 57, by regional group and in total



Good practices in relation to article 57

40. Good practices were identified in two Western European and other States, one African State and one Asia-Pacific State. Reviewers noted that the legislation of Norway clearly recognized the principle of asset return in accordance with the Convention, and that case examples involving the successful return of assets had been provided in the course of the review. In Germany, reviewers highlighted the possibility of compensation from public funds if an injured person was unable to obtain full satisfaction of a claim from enforcement of the title. In Eswatini, they commended the establishment of the Confiscated and Forfeited Funds Account and the Criminal Assets Recovery Fund to enable victims of crime to be compensated, among other purposes. Lastly, reviewers noted the enforcement by Malaysia of provisions of the Mutual Legal Assistance Act, resulting in the return of proceeds of property to bona fide third parties in accordance with paragraph 2 of article 57.

Figure XVIII
Number of finalized executive summaries and good practices identified for article 57 of the Convention, by regional group



D. Outlook

41. The present report reflects the analysis of 72 completed executive summaries, as well as more detailed information provided in the public country review reports. As more data become available from completed country reviews, more comprehensive regional trends and analysis will be identified in future regional supplements and will be used to keep the Implementation Review Group informed of successes and challenges identified in the course of the reviews.
