

10 November 2022

English only

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**Implementation Review Group**  
**Second resumed thirteenth session**  
Vienna, 7–11 November 2022  
Agenda item 4  
**State of implementation of the United Nations**  
**Convention against Corruption**

**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### South Sudan

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

South Sudan acceded to the Convention on 23 January 2015. The reviews for the first and second cycles were conducted at joint meetings held back-to-back in Vienna in the same week.

Upon gaining independence in 2011, South Sudan adopted the Transitional Constitution, which should remain in force until the adoption of a permanent Constitution. As the supreme law, the Transitional Constitution recognizes common law principles and rules (art. 5).

The primary legislation for asset recovery and the prevention of corruption includes the Anti-Corruption Commission Act, the Code of Criminal Procedure Act, the Civil Service Act, the Right of Access to Information Act, the Anti-Money-Laundering and Counter Terrorist Financing Act (Anti-Money-Laundering Act), the Bank of South Sudan Act and the Banking Act.

Institutions involved in asset recovery and the prevention of corruption include the Anti-Corruption Commission (SSACC), the National Legislature, the Ministry of Interior, the Ministry of Justice and Constitutional Affairs, the Financial Intelligence Unit, the Audit Chamber, the Public Grievances Chamber and the Employee Justice Chamber.

Although measures have been put in place to promote inter-agency coordination in the fight against corruption, a lack of involvement of relevant agencies was identified as a challenge. In addition, the absence of cases, examples and statistics frequently limited the review to legislative compliance.

#### 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)*

South Sudan established the SSACC pursuant to the Anti-Corruption Commission Act, the revision of which was being discussed at the time of the joint meeting. The SSACC developed the National Anti-Corruption Strategy for the period 2010–2014; however, no new strategy has been developed since that time. The Commission is currently analysing the implementation gaps identified under the first review cycle, in particular regarding the mandatory provisions of the Convention. According to the national authorities, South Sudan requires technical assistance in relation to the National Anti-Corruption Strategy in order to ensure further compliance with the Convention.

The SSACC carried out successive corruption perception surveys in 2007, 2010 and 2016, in order to track and analyse corruption trends. The Commission has a detailed implementation plan and an accompanying monitoring, evaluation and reporting framework, which would benefit from further development. Principles of good governance are enshrined in the Public Procurement and Disposal Regulations of 2018 and the Public Service Act of 2011.

With regard to measures aimed at preventing corruption, South Sudan has developed anti-corruption awareness campaigns and established system audits in all corruption-prone government institutions. The SSACC has also provided a number of training programmes for its staff at different levels. Policy documents, such as the

draft corruption prevention action plan, and social accountability report, have also been developed.

South Sudan participates in regional initiatives and is a member of the organizations that assist in the prevention of corruption, including the East Africa Association of Anti-Corruption Authorities, the International Criminal Police Organization (INTERPOL) and the Asset Recovery Inter-Agency Network for Eastern Africa. It also collaborates with the Malaysian Integrity Officers Programme and the Egyptian Anti-Corruption Academy. Cooperation with other international institutions is prescribed under section 9 (1) (g) of the Anti-Corruption Commission Act.

The SSACC is the main body that coordinates and implements anti-corruption policies in collaboration with other government institutions. According to article 143 (2) of the Transitional Constitution, the Chairperson, Deputy Chairperson and Members of the SSACC are appointed by the President with the approval of the National Legislative Assembly. The structure of the SSACC is established by administrative orders of the Chairperson. Section 6 (2) of the Anti-Corruption Commission Act guarantees the independence of the Commission in the execution of its functions. The SSACC carries out various activities to prevent corruption, including awareness-raising campaigns and research. The SSACC and other institutions responsible for the implementation of chapter II of the Convention should be granted the necessary independence and provided with adequate training and material resources.

The SSACC leads anti-corruption investigations. It is tasked with investigating and prosecuting cases of corruption and coordinating with any government agency in the investigation and prosecution of corruption offences.

With respect to security of tenure, SSACC members may not be removed from office except with the National Legislature's approval by a two-thirds majority vote of all members (art.143 (3) of the Transitional Constitution). Furthermore, section 17 of the Anti-Corruption Commission Act provides security of tenure for members of the Commission. However, the Transitional Constitution and the Anti-Corruption Commission Act contain differing provisions on the removal procedure.

South Sudan was reminded of its obligation to inform the Secretary-General of the authorities that may assist other States parties in the prevention of corruption.

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

The Civil Service Act and the Personnel Manual contain provisions on the recruitment of staff and related procedures, such as their removal and disciplinary measures. The public sector recruitment process is merit-based and transparent, in theory. However, the national authorities reported that in practice, the procedures are implemented only minimally.

The salary scales and entry-level of the first appointment are based on provisions contained in the Civil Service Act and the Personnel Manual (chapter VII, sects. 43–62 of the Act; chapter VIII of the Manual). The scales are established by the Ministry of Public Service and Human Resource Development. There are no specific procedures for the selection, rotation and training of individuals holding positions considered especially vulnerable to corruption.

The Ministry of Finance and Planning and the Ministry of Public Service allow for the turnover of staff. Training and education programmes are currently hampered by a lack of resources. There are no statistics available regarding the number of training programmes conducted internally and externally. A number of training programmes are available for SSACC staff and are provided upon their appointment. However, several of the programmes are merely optional.

Criteria for the qualification and disqualification of individuals standing for elected public office are set out in the Transitional Constitution (sects. 62, 98, 104 and 112).

The Transitional Constitution also includes criteria on eligibility for election to the National Legislature. The funding of political parties is governed by articles 91–94 of the National Elections Act. Conflicts of interest are regulated by different legislations.

Most public officials are subject to the provisions of the Civil Service Act, which sets out integrity measures. A code of conduct was adopted to regulate the conduct of public officials and to provide disciplinary measures for non-compliance. Some sectors, such as the judiciary, prosecution service and employees of the National Revenue Authority, have their own codes. Articles 120 and 144 of the Transitional Constitution establish the obligation of asset disclosure. More details are provided under article 52 of the Convention. Furthermore, section 35 of the Anti-Corruption Commission Act mandates the SSACC to oversee the confidential formal declarations of income, assets and liabilities and imposes sanctions for non-compliance. However, the Commission reported a lack of resources to store the declarations. A lack of specific timelines for declaration and penalties for those who fail to submit declarations was also noted. It was not clear whether a system for declaring gifts and a system for regulating outside interests and employment are applied in practice.

While the code of conduct calls for the reporting of fraud, misconduct or any other inappropriate behaviour to the responsible officers, and State anti-corruption offices and reporting guidelines have been established to support general reporting, limited measures and systems such as protection from disciplinary measures are in place to facilitate specific reporting by public officials of corrupt conduct. Measures against public officials who violate the codes or standards are provided in articles 95 and 96 of the Civil Service Act.

The Judiciary Act and the Judicial Service Council Act regulate the applicable disciplinary mechanisms to ensure the independence and integrity of the judiciary. It is not clear whether the country has a legal framework to ensure the independence and integrity of the prosecution service, and no similar measures have been taken in relation to the prosecution service.

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

The Public Procurement and Disposal Act of 2018, repealing the previous regulation of 2006, is used by South Sudan to monitor and report on procurement processes involving the purchase and disposal of government assets.

The website of the Ministry of Finance and Planning contains information in relation to the Procurement Directorate, which is responsible for managing public procurement processes. The minister in charge of finance and planning is required to supervise the procurement process in cooperation with the procurement committee of each procuring agency.

A lack of information on the internal review system and the appeal of procurement decisions was noted, although the national authorities stated that the internal review system has been conducted in practice. Bids are published mostly in newspapers. Electronic procurement platforms are not operational.

The Ministry of Finance and Planning is responsible for preparing, managing and monitoring the annual budget. The draft national budget is prepared using the information provided by the Ministry of Petroleum, the Bank of South Sudan and the National Revenue Authority. It is then analysed by the Directorate of Budget and Revenue. The budget proposal is presented to the President, who causes it to be submitted to the Assembly by not later than 15 May of each financial year. In the event that the Assembly fails to approve the budget within 45 days of its submission to the Assembly, the President issues a presidential decree on the budget for that year, and such budget is deemed to have been approved by the Assembly in accordance with the provisions of the Constitution.

The Public Financial Management and Accountability Act requires the general maintenance of government financial records.

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

South Sudan has enacted specific legislation on access to information in the form of the Right of Access to Information Act. The Access to Information Commission, which is structured in such a way that there is a focal point in every ministry who is responsible for coordinating access to information, has endeavoured to work on reforms to expedite access to information. It regularly raises awareness of the nature and types of information that is available and accessible to the public. Furthermore, it has developed a strategic plan with the input of all relevant institutions and elements of public participation.

In South Sudan, records are generally available to the public unless they fall within the scope of application of legislation governing secrecy or confidentiality of information. Some ministries, such as the Ministry of Finance and Planning, have published information regarding their operations and functions online. However, other ministries do not maintain official websites. The Right of Access to Information Act affords any citizen the right to appeal if his or her request for access to information is denied (Chapters VI and VII).

With regard to the participation of society in the public decision-making process, article 139 of the Transitional Constitution requires transparency to be fostered through the provision to the public of timely, accessible and accurate information. The SSACC has produced a number of reports assessing the risks of corruption in the public administration. According to the authorities, the findings of those reports are published periodically.

During budget discussions in the Parliament, representatives of the public are invited to decide or contribute to decisions on how to allocate parts of the public budget in specific institutions. Furthermore, during the legislation-making process, individuals and groups outside the public sector are consulted. Staff of the Access to Information Commission are responsible for administering information requests and ensuring that all public officials are aware of the obligations in relation thereto. The opinion of civil society is sought in respect of pending legislation and policy decisions.

The National Anti-Corruption Strategy 2010–2014 was drafted and implemented with the involvement of representatives of civil society. The Strategy also sought to maximize citizens' input on "the policy process". In addition, the SSACC occasionally conducts public awareness and outreach programmes to educate the public about the effects of corruption and the procedure for reporting corrupt conduct. It has held public information campaigns in the form of rallies, talk shows and conferences to promote knowledge of the fight against corruption. The Anti-Corruption Commission Act contains provisions on the obligation of public officials to report corrupt conduct (sect. 34) and on the protection of reporting persons (sect. 44).

*Private sector (art. 12)*

Cooperation with the private sector was provided for under the National Anti-Corruption Strategy 2010–2014. Due to the lack of information, the review team could not assess the accounting and auditing standards and procedures designed to prevent corruption in the private sector. South Sudan does not expressly disallow the tax deductibility of expenses that constitute bribes. The Companies Act contains provisions on records, accounting and auditing and the inspection of records and accounts, as well as penalties (sects. 158, 200–228 and 392–398).

*Measures to prevent money-laundering (art. 14)*

The Anti-Money-Laundering Act was adopted in 2012, but a number of provisions have not been fully implemented in practice. Sections 10 and 11 of the Act require the establishment of the National Multidisciplinary Anti-Money-Laundering Committee to assess and provide advice on policies and measures to combat money-laundering. Although the Committee is supposed to promote inter-agency coordination through

the involvement of representatives of various authorities, it had not been established at the time of the joint meeting. Similarly, the Financial Intelligence Unit, as designated by the Anti-Money-Laundering Act (sects. 6–9), was not yet operational.<sup>1</sup> It was reported that South Sudan instead has an interim body that fulfils the relevant functions, including the collection, analysis and dissemination of information on money-laundering. However, further details regarding the functioning and composition of that body were not provided. The country has never conducted a national risk assessment.<sup>2</sup>

The Anti-Money-Laundering Act establishes a list of financial and non-financial institutions as well as other businesses and professions subject to its provisions (sect. 5). These reporting persons are obliged to submit suspicious transaction reports to the Financial Intelligence Unit (sect. 18 of the Act). Nevertheless, the status of information exchange at the national and international levels in South Sudan cannot be assessed owing to limited information. The Act also defines the “regulator” as the Bank of South Sudan or any other public authority specified by the minister in charge of finance and planning, although that authority has never been designated. The specific functions of the Bank of South Sudan are set out in section 6 of the Bank of South Sudan Act. Sections 16–20 of the Anti-Money-Laundering Act contain provisions on preventive measures on money-laundering such as record-keeping and suspicious transaction reports.

Section 24 of the Anti-Money-Laundering Act establishes the obligation to declare to customs the cross-border movement of cash or bearer negotiable instruments with a value that exceeds the amount prescribed by the minister in charge of finance and planning. However, that amount has not yet been provided and, as a result, the declaration system has not yet been operationalized. Administrative sanctions can be applied in case of non-compliance (sect. 24).

South Sudan has vague provisions requiring banks to register the identity of persons who use them for such activities as transfers of funds (sect. 77 of the Banking Act). However, there are no other detailed rules requiring financial institutions, including money remitters, to maintain comprehensive information on the electronic transfer of funds, including applying enhanced scrutiny where appropriate. At the time of the joint meeting, South Sudan had not participated in the initiatives of any regional, interregional or multilateral organizations against money-laundering, and international cooperation in this regard is rather limited.

## 2.2. Successes and good practices

- The establishment of the SSACC in the Transitional Constitution (art. 6).
- The adoption of the National Anti-Corruption Strategy following extensive stakeholder consultation (art 13).

## 2.3. Challenges in implementation

It is recommended that South Sudan:

- Adopt a new anti-corruption strategy, strengthen the monitoring and reporting mechanism thereunder, and allocate adequate resources to ensure its effective implementation (art. 5).
- Adopt appropriate anti-corruption policies for further implementation of the Convention (art. 5).

<sup>1</sup> South Sudan reported that the National Multidisciplinary Anti-Money-Laundering Committee was established after the joint meeting. South Sudanese authorities also reported that the Financial Intelligence Unit became operational after the joint meeting and efforts are underway to join regional and international initiatives on combating money-laundering and terrorism financing, such as ESAAMLG.

<sup>2</sup> South Sudan reported that the national risk assessment process started after the joint meeting. This process was not concluded at the time of the review.

- Endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption (art. 5).
- Consider measures to strengthen the independence of and provide adequate resources and training to the bodies responsible for preventing corruption, particularly the SSACC (art. 6).
- Take measures to harmonize the discrepancy between the Transitional Constitution and the Anti-Corruption Commission Act in respect of the procedure for the removal of SSACC members (art. 6).
- Endeavour to adopt measures for the training of public officials, particularly those in positions considered especially vulnerable to corruption, and for the identification of those vulnerable positions (art. 7).
- Promote adequate remuneration and equitable pay scales in relation to the salary system of civil servants and the promotion of civil servants (art. 7, para. 1).
- Endeavour to strengthen systems that promote transparency and prevent conflicts of interest, including in the private sector (art. 7 and art. 12, para. 2).
- Consider establishing additional measures to facilitate the reporting by public officials of acts of corruption and provide adequate protection to reporting persons (art. 8, para. 4).
- Consider establishing clear sanctions for non-compliance by relevant officials with the financial disclosure obligations and ensure adequate resources are allocated for the imposition of sanctions in this regard (art. 8, para. 5);
- Consider revisions to the procurement legislation to strengthen the competitive process and adopt systems to report on public expenditure at the local level; and introduce a risk management and internal control system (art. 9).
- Strengthen the public procurement system, including the system for internal review and appeal and the public distribution of information relating to procedures and contract award (art. 9, para. 1).
- Continue strengthening the participation of society in the prevention of corruption, including through an anti-corruption strategy, public awareness measures and public education programmes (arts. 10 and 13).
- Consider administrative measures to strengthen access to information, as well as the establishment of guidelines to enable public institutions to ensure effective and timely access to information (arts. 10 and 13).
- Consider measures to enable periodic public reporting of the activities of the government institutions involved in preventing corruption (art. 10).
- Consider taking measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary and public prosecution service (art. 11).
- Ensure that the tax deductibility of expenses that constitute bribes is disallowed (art. 12, para. 4).
- Take additional measures to ensure that reporting procedures, including anonymous reporting, are known to the public (art. 13, para. 2).
- Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions in order to prevent money-laundering (art.14, para. 1).
- Take additional measures to promote national and international cooperation and coordination among judicial, law enforcement and financial regulatory authorities, including in relation to the exchange of information, in order to combat money-laundering (art. 14, paras. 1 and 5).

- Establish thresholds for declaring the cross-border movement of cash and negotiable instruments and ensure the implementation of relevant provisions of the Anti-Money-Laundering Act (art. 14, para. 2).
- Set out rules requiring financial institutions, including money remitters, to maintain adequate information regarding the electronic transfer of funds and apply enhanced scrutiny when necessary (art. 14, para. 3).
- Promote participation in relevant initiatives of regional, interregional and multilateral organizations against money-laundering and use them as a guideline for countering money-laundering (art. 14, paras. 4 and 5).

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

The following needs were identified for all articles under chapter II of the Convention:

- Collection of statistical data.
- Further capacity-building for staff, mainly in the areas of research, data collection and analysis.
- Legislative assistance, institution-building, policymaking, capacity-building, research/data gathering and analysis.
- Facilitation of international cooperation with other countries.
- Measures to develop and strengthen national anti-corruption strategy in order to ensure further compliance with the Convention.

### 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 asset recovery regime is in its infancy in South Sudan. The legal framework for asset recovery comprises the Penal Code Act, the Code of Criminal Procedure Act and the Anti-Money-Laundering Act. The country does not have a dedicated law on mutual legal assistance, but it was reported that the provisions of the Convention on mutual legal assistance can be directly applied. However, their application is difficult in practice given the absence of clear domestic policy and procedure. Law enforcement and judicial institutions may engage in asset recovery, but there is no national institution specialized in the tracing, securing and confiscation of assets. To date, South Sudan does not have any cases of asset recovery.

Although the Anti-Money-Laundering Act provides that the Financial Intelligence Unit may exchange information with overseas counterparts, the unit has not yet been established.<sup>3</sup> There are no other provisions in the country's legislation providing for the spontaneous transmission of information. In practice, the South Sudanese police may share information through INTERPOL as well as inter-agency cooperation arrangements.

South Sudan has not concluded any bilateral agreements that enhance the effectiveness of international cooperation undertaken pursuant to this chapter.

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

Customer due diligence is addressed under section 77 of the Banking Act and section 16 of the Anti-Money-Laundering Act. The Anti-Money-Laundering Act contains provisions on the identification of beneficial owners (sect. 16 (3) and (4)).

<sup>3</sup> South Sudanese authorities reported that the Financial Intelligence Unit became operational after the joint meeting.

However, it does not provide for the definition of beneficial owner. The Anti-Money-Laundering Act also provides a definition of politically exposed persons; however, that definition encompasses only foreign individuals (sect. 5). Enhanced due diligence measures are expected to be applied to politically exposed persons pursuant to section 16 of the Anti-Money-Laundering Act. The Bank of South Sudan has also issued the Anti-Money-Laundering Policy Manual to guide customer due diligence and other matters related to money-laundering.

When deciding on appropriate customer due diligence measures, reporting persons should consider whether anti-money-laundering measures have been taken in the jurisdiction where the customer is based or incorporated (sect. 16 (5) of the Anti-Money-Laundering Act). However, it is not clear whether a risk-based approach is followed or financial institutions in South Sudan use ongoing monitoring for profiling clients.

Reporting persons are required to keep files and records for at least five years from the date on which the relevant business or transaction is completed (sect. 17 of the Anti-Money-Laundering Act). Such records should also include information on beneficial owners and the method used for verification by reporting persons.

The Terms of Licence to Engage in Banking Activities in South Sudan issued by the Bank of South Sudan prevent the establishment of shell banks, and section 80 of the Banking Act clearly indicates that no bank may enter into or continue a correspondent relationship with a shell bank, or with any bank that permits its accounts to be used by a shell bank.

The country has established the obligation for all executive and legislative constitutional office holders, justices and senior civil service officials at all levels of Government, upon assumption of their offices and annually thereafter, to make confidential declarations of their assets and liabilities, including those of their spouses and children (art. 120 of the Transitional Constitution; sect. 35 of the Anti-Corruption Commission Act). Furthermore, the SSACC is mandated to oversee the confidential declarations of income, assets and liabilities, and imposes sanctions for non-compliance (sect. 35 of the Act). However, the Act does not specify the details of the sanctions but only provides that necessary legal measures may be taken against non-compliant officers. A lack of resources to impose sanctions was also reported. In addition, declarations are verified only when a public official is accused of corruption. Furthermore, declarations are normally not subject to public scrutiny (sect. 35 of the Act). Owing to the confidentiality of the asset declarations, the South Sudanese authorities cannot share them with foreign competent authorities. It is not clear whether the assets subject to declaration include interest in or signature or other authority over a financial account in a foreign country.

Pursuant to section 8 of the Act, the Financial Intelligence Unit should receive and analyse reports of suspicious transactions and disseminate such reports and other relevant information to law enforcement agencies. At the moment of the joint meeting, an interim body was functioning as an alternative to the Financial Intelligence Unit at this stage, and there had not been substantive cooperation with counterpart financial intelligence units.

*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)*

Natural and legal persons are entitled to initiate civil action to claim compensation or establish ownership of property (chapters II, III and IV of the Civil Procedures Act). However, foreign States are not specifically permitted to initiate such action. South Sudan has never had a case involving a foreign State as a civil party. A criminal court may exercise its civil power to order the offender to pay compensation to any injured persons, which may include foreign States (sects. 21 and 290 of the Penal Code Act). Section 119 of the Code of Criminal Procedure Act permits the magistrate or court, when having to decide on the disposal of stolen assets, to order their restitution to a

legitimate owner of the property. However, the Act contains no provisions on whether a “person appearing to be entitled to the possession” of the property pursuant to section 119 (1) may be a foreign State. Meanwhile, there is no court practice in this regard.

South Sudan does not require a treaty to render international cooperation and can therefore execute foreign requests on the basis of reciprocity. However, its legislation does not specify whether foreign judgments or orders of confiscation can be directly enforced. In practice, a request to execute a foreign confiscation order must be submitted to the Ministry of Justice and Constitutional Affairs, which is the central authority for mutual legal assistance. However, there is no procedure to follow for the execution of such a request. The country has reported that requests for mutual legal assistance will be handled on a case-by-case basis, but it has never received a request in relation to the execution of foreign confiscation, freezing or seizure measures.

The fact that, under section 14 of the Anti-Money-Laundering Act, money-laundering offences do not explicitly cover foreign predicate offences, coupled with the fact that the Act does not explicitly provide for the confiscation of laundered proceeds, prevents the South Sudanese competent authorities from ordering the confiscation of corruption proceeds of foreign origin by adjudication of an offence of money-laundering. South Sudan does not allow non-conviction-based confiscation.

Sections 114 and 115 of the Code of Criminal Procedure Act grant the police, prosecution and judiciary the power to temporarily seize property that belongs to a person under arrest or that is suspected of being stolen. However, there are no rules concerning the enforcement of a foreign freezing or seizure order or a request for mutual legal assistance in this regard. No additional measures have been taken by the South Sudanese authorities to proactively preserve property for confiscation on the basis of a foreign arrest or criminal charges issued by a foreign court.

South Sudan has not yet had a case involving the enforcement of interim or confiscation orders related to corruption; therefore, the implementation of article 55, paragraphs 1 and 2, of the Convention cannot be fully assessed. Furthermore, there are no provisions specifying the requirements for requests for mutual legal assistance or grounds for refusal, or provisions giving the requesting State an opportunity to present its reasons in favour of continuing measures before the lifting of provisional measures taken in relation to assets. The interests of bona fide third parties are protected by the Code of Criminal Procedure Act (sect. 120).

#### *Return and disposal of assets (art. 57)*

Confiscated assets are public funds and must be transferred to the Ministry of Finance and Planning for inclusion in the revenues of the Government (sect. 29 of the Anti-Money-Laundering Act and section 54 of Interpretation of Laws and General Provisions Act, 2006). There is no law that specifically sets out procedures for the disposal and return of assets to other States in relation to the offences under the Convention, including with the deduction of reasonable expenses. South Sudan has not yet returned assets or concluded any agreements for the final disposal of confiscated property.

### **3.2. Successes and good practices**

- The interests of bona fide third parties are explicitly protected by legislation (art. 55).

### **3.3. Challenges in implementation**

It is recommended that South Sudan:

- Adopt measures to fill gaps in the legal framework for asset recovery and establish adequate measures to enable the effective recovery of assets; clarify the powers of the various institutions for asset recovery (art. 51).

- Continue taking measures to determine the identity of beneficial owners of funds deposited into high-value accounts, and consider amending the definition of politically exposed persons in the Anti-Money-Laundering Act to include domestic politically exposed persons, family members and close associates; furthermore, enhance measures for the ongoing monitoring of financial institutions in profiling clients using a risk-based approach (art. 52, para. 1).
- Introduce a system to notify financial institutions of the identity of particular natural or legal persons to whose accounts enhanced scrutiny should be applied (art. 52, para. 2 (b)).
- Consider permitting asset declarations to be shared with foreign competent authorities ( art. 52, para. 5).
- Consider establishing clear procedures for appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report such relationship to the SSACC, including by establishing rules on record maintenance and appropriate sanctions for non-compliance (art. 52, para. 6).
- Ensure that foreign States are allowed to initiate civil action, sue for compensation and be recognized as legitimate owners of property acquired through the commission of an offence established under the Convention (art. 53).
- Adopt measures to allow its competent authorities to give effect to foreign confiscation orders (art. 54, para. 1 (a)).
- Take further measures to ensure the confiscation of property of foreign origin by adjudication of an offence of money-laundering (art. 54, para. 1 (b)).
- Consider adopting measures to allow the non-conviction-based confiscation of property acquired through or involved in the commission of an offence established under the Convention (art. 54, para. 1 (c)).
- Adopt measures to allow its competent authorities to freeze or seize assets on the basis of a foreign freezing or seizure order or a foreign request (art. 54, para. 2 (a) and (b)).
- Consider taking additional measures to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge (art. 54, para. 2 (c)).
- Ensure that the obligations under article 55, paragraphs 1 and 2, are discharged upon receipt of a foreign confiscation order.
- Consider putting in place comprehensive domestic legislation to prescribe necessary substantive and procedural requirements for mutual legal assistance, including clear grounds for refusal, and giving the requesting State an opportunity to present its reasons in favour of continuing measures before the lifting of provisional measures (art. 55, paras. 3, 7 and 8).
- Endeavour to take measures to permit the proactive sharing of information on proceeds of corruption by its authorities at the international level (art. 56).
- Adopt measures for the return and disposal of confiscated assets pursuant to article 57 of the Convention, in particular the return of confiscated property to requesting States or its prior legitimate owner, or for the compensation of the victims of the crime, while taking into account the rights of bona fide third parties (art. 57, paras. 1–3).
- Enhance cooperation with other States for the purpose of preventing and combating the transfer of proceeds of offences, and consider establishing the Financial Intelligence Unit in accordance with article 58 of the Convention and the Anti-Money-Laundering Act, ensuring, in particular, the necessary resources for its effective functioning (art. 58).

- Consider concluding agreements or arrangements to enhance the effectiveness of international cooperation pursuant to chapter V of the Convention (art. 59).

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

- Capacity-building and training in relation to drafting necessary legislative acts, engaging with regional and international asset-recovery initiatives and networks and facilitating cooperation with foreign countries in the area of asset recovery (arts. 51–59).
-