



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

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## Open-ended Intergovernmental Working Group on the Prevention of Corruption

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Item 2 (a)(ii) of the provisional agenda\*

**Implementation of Conference resolution 5/4, entitled “Follow-up to the Marrakech declaration on the prevention of corruption”, and of the recommendations made by the Working Group at its meeting held in August 2013: good practices and initiatives in the prevention of corruption — thematic discussion on public sector legislative and administrative measures, including measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties (articles 5 and 7 of the United Nations Convention against Corruption)**

### **Public sector legislative and administrative measures, including measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties (articles 5 and 7)**

Note by the Secretariat

#### **I. Introduction**

1. In its resolution 5/4 entitled “Follow-up to the Marrakech declaration on the prevention of corruption”, the Conference of the States Parties to the United Nations Convention against Corruption decided that the Open-ended Intergovernmental Working Group on the Prevention of Corruption should continue its work to advise and assist the Conference in the implementation of its mandate on the prevention of corruption.
2. In that resolution, the Conference also decided that the Working Group should hold at least two meetings prior to the sixth session of the Conference and that it

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\* CAC/COSP/WG.4/2014/1.



should continue to follow the multi-year workplan for the period up to 2015, and thus address, at its fifth meeting, the following topics: (a) mandates of anti-corruption body or bodies in respect of prevention (art. 6); and (b) public sector legislative and administrative measures, including measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties (arts. 5 and 7).

3. In accordance with the request of the Conference, the present note has been prepared on the basis of information relating to the second topic that was provided by Governments in response to the Secretary-General's note verbale of 7 March 2014 and the reminder note verbale of 30 April 2014.<sup>1</sup> As of 24 June 2014, submissions had been received from 29 States. The submissions from the following 25 countries contained information relating to the topic of the present report: Argentina, Brazil, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, France, Germany, Kuwait, Lithuania, Morocco, Nigeria, Oman, Qatar, Republic of Korea, Saudi Arabia, Serbia, Sierra Leone, Slovenia, Spain, State of Palestine, Tunisia, United States of America and Venezuela (Bolivarian Republic of). Information was also provided by the Organization for Economic Cooperation and Development (OECD).

4. With the agreement of the countries concerned, the full texts of the submissions have been made available on the United Nations Office on Drugs and Crime (UNODC) website for the meeting,<sup>2</sup> and will also be incorporated into the thematic website for the Working Group developed by the Secretariat.<sup>3</sup>

5. In accordance with resolution 5/4, the Secretariat also sought the inputs of the private sector in relation to the topics under consideration at the present meeting of the Working Group. In response to a letter dated 27 February 2014, circulated by the Secretariat, three submissions were received by private-sector bodies. In those submissions, private-sector companies referred to the importance of participating in the political process by informing public officials about issues that were significant to business. One United States company reported that contributions made to candidates for elected public office were governed by both internal company policy and national legislation. Another company referred to the online business anti-corruption portal.<sup>4</sup>

6. The present note does not purport to be comprehensive, but rather endeavours to provide a summary of the information submitted by States.

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<sup>1</sup> An account of good practices in the area of mandates of anti-corruption body or bodies in respect of prevention, in the context of article 6 of the Convention, is provided in a separate note by the Secretariat (CAC/COSP/WG.4/2014/2).

<sup>2</sup> [www.unodc.org/unodc/en/treaties/CAC/working-group4.html](http://www.unodc.org/unodc/en/treaties/CAC/working-group4.html).

<sup>3</sup> [www.unodc.org/unodc/en/corruption/WG-Prevention/working-group-on-prevention.html](http://www.unodc.org/unodc/en/corruption/WG-Prevention/working-group-on-prevention.html).

<sup>4</sup> [www.business-anti-corruption.com](http://www.business-anti-corruption.com).

## **II. Analysis of submissions of States parties**

### **A. Background**

7. Article 5 of the United Nations Convention against Corruption requires States parties, *inter alia*, to develop and implement effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

8. Article 7 of the Convention addresses the prevention of corruption in relation to the public sector. Paragraph 1 requires States parties to endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants. Paragraphs 2 and 3 of that article call on States parties to consider adopting appropriate legislative and administrative measures, consistent with the objectives of the Convention and in accordance with the fundamental principles of their national law, to prescribe criteria concerning candidature for and election to public office, and to enhance transparency in the funding of candidatures for elected public office, and, where applicable, the funding of political parties. Lastly, paragraph 4 states that each State party shall endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interests.

9. The workplan of the Working Group for the present session specifically included measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties, as required by article 7, paragraph 3, of the Convention. The submissions received from States addressed not only transparency, but also other important aspects of the topic of funding candidates and political parties that are relevant to the objectives of the Convention.

10. In this way, States reported on efforts to limit who may fund candidates and political parties, how much money may be contributed and how much money may be spent. They also referred to oversight and enforcement mechanisms designed to ensure that public information on funding is accurate and that controls on funding are respected. Some States further reported on mechanisms to provide public funding for candidates and political parties, which were seen as a way of ensuring fully participatory democracy.

11. A smaller number of States also reported on the other paragraphs of article 7, relating to the prevention of corruption in the civil service, conflicts of interest and the criteria concerning candidature for and election to public office. Those topics will therefore also be addressed in the present report.

### **B. Transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties**

12. While article 7, paragraph 3, of the Convention refers to efforts to enhance transparency in the funding of candidates and political parties, a number of States also provided more comprehensive information on such funding, including in

relation to restrictions on the sources of funding, monetary limits on the amount of funds that may be provided to a candidature or political party, public financing, and limitations on expenditure during an electoral campaign.

13. Many countries referred to specific laws that regulated the funding of political candidatures and parties. In several countries, including Egypt, Lithuania, Slovenia and Spain, such legislation had been adopted or amended in recent years.

#### **Definition of a donation or contribution**

14. A number of States reported that their national legislation contained a broad definition of a donation or contribution to a candidature or political party which included other kinds of contributions in addition to cash.

15. In Argentina and Ecuador, the legislation covered any contribution that was in cash or that had a cash value. Slovenia reported that its legislation covered gifts, non-monetary contributions, the performance of services or the selling of goods in a way that was beneficial to the political party. In the United States, a contribution broadly encompassed any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing an election for federal office.

16. In France, a donation included the transmission of any property or right to the profit of another. The relevant law in Lithuania had a very broad definition of donation which included such items as movable or immovable property, information, property rights, the results of intellectual activities and voluntary work. The definition of contribution in the Political Funds Act of the Republic of Korea was equally broad, including goods, free rent and reduction of debt.

17. Germany reported that its Political Party Act set out three different kinds of donations or contributions to political parties: membership dues paid by party members; contributions paid by elected representatives; and political party donations, which could be either in cash or in kind. Donations made to political parties were tax-deductible.

18. In contrast, Nigeria noted that its legislation did not specifically define what a donation or contribution to a candidate or political party was.

#### **Restrictions on the source of funding contributions**

19. Many of the reporting States indicated that they imposed limits on which types of people or entities were permitted to make private contributions to candidatures and political parties. In general, those prohibitions covered a number of specific categories, including legal persons or businesses, foreign persons, companies, States and State-owned organizations or enterprises. A few countries had additional specific prohibitions. Argentina, Brazil and Serbia, for example, prohibited contributions from professional associations and trade unions.

20. Ecuador, France, the Republic of Korea, Slovenia and Tunisia reported that contributions could not be made to candidatures or political parties by legal persons or entities.

21. In Lithuania, following an amendment in 2012, the Law on Funding of, and Control over Funding of, Political Parties and Political Campaigns excluded

contributions by legal persons, specifying instead an exhaustive list of funding sources permitted for political parties and independent candidates. Argentina reported that it prohibited legal persons from funding electoral campaigns and that additional detailed prohibitions for political parties were contained in Law No. 26.215.

22. In contrast, a number of other States, including Brazil, the Czech Republic, Egypt, Germany and the State of Palestine, reported that both natural and legal persons could contribute to candidatures and political parties. In the United States, there were restrictions on contributions by corporations, although political action committees could contribute funds. Contributions from legal persons that were State-owned or managed by the State were prohibited, however, in countries such as the Czech Republic, Germany and Venezuela (Bolivarian Republic of).

23. Several States also prohibited contributions or assistance from foreign entities. Contributions from a foreign State, political party or legal person were prohibited in many of the reporting States, including Brazil, France, Nigeria, the Republic of Korea, Slovenia, the United States and Venezuela (Bolivarian Republic of). Contributions from foreign persons were also often prohibited, although exceptions were made for foreigners who were resident in the country. Donations from foreign sources that were non-resident were generally banned in Argentina, Ecuador, Serbia, the State of Palestine, Tunisia, the United States and Venezuela (Bolivarian Republic of).

24. In Germany, there were general limitations on donations from foreign entities, with a few exceptions, such as donations from citizens or businesses of the European Union and donations linked to national minorities. In addition, small donations from foreign persons were permitted.

25. In Sierra Leone, there was no explicit legal prohibition on foreign donors or on legal entities wholly or partly owned by the State from funding political parties or prospective candidates for public office, although the Political Parties Act required contributions to come from voters registered in the country. Sierra Leone noted that there was a popular view that State resources had been misused in past elections.

26. Denmark reported that it allowed anonymous contributions. Several other countries, including Argentina, Nigeria, Serbia and Venezuela (Bolivarian Republic of), expressly prohibited by law anonymous contributions or donations, irrespective of the amount provided. The United States prohibited contributions made on behalf of another person and imposed strict limits on cash contributions and the value of anonymous contributions.

#### **Value limits on contributions**

27. Many reporting States referred to limitations on the monetary value of private contributions that could be made to candidatures or political parties. In general, those limitations were applied to individual contributions or individual donors and did not affect the overall amount that could be received by any particular candidate or party. The limitations on individual contributions were seen as protecting the candidate or political party from influence by the contributor. The role of public contributions to electoral campaigns is addressed in paragraphs 38 to 43 below.

28. Limitations on the amount that an individual donor could contribute each year were applied in Argentina, Brazil, Ecuador, France, Lithuania, the Republic of Korea, Serbia, Slovenia, Tunisia and the United States. Some of those countries which allowed for contributions from legal persons also reported imposing limits (often higher ones) on such contributions.

29. A few countries, such as France and Tunisia, reported that the maximum amount was fixed at the same level for all natural persons. In France, for example, a natural person could provide annual contributions up to €7,500 to a political party.

30. In Serbia, that amount was fixed at 20 times the average monthly salary for individual contributions and 200 times the average monthly salary for legal persons, while in Slovenia an individual could not contribute more than 10 times the average monthly salary.

31. In the United States, the Federal Election Commission had put in place a detailed system that limited annual contributions to candidates by individuals and party committees, political party committees and other political committees. Because the contribution limits applied to each candidate and to each national party committee and to state, district and local party committees, the amounts could, to a degree, be cumulative. For federal elections, during the period 2013-2014, for example, an individual could contribute up to a maximum of \$2,600 to each candidate or candidate committee per election, \$32,400 to a national party committee, \$10,000 to state, district and local party committees and \$5,000 to any other political committee.

32. In the Republic of Korea, the Political Fund Act set out a limit on the amount that supporters could contribute to candidates. That limit was set at approximately \$10,000 for presidential candidates and 5 per cent of that amount for other elections. Fundraising associations could also raise funds for candidates.

33. In Argentina, the National Electoral Chamber, within the jurisdiction of the judicial branch, established on a yearly basis the limit on contributions and donations to political parties from private and public sources, which was based on a percentage of electoral expenses.

34. Similarly, in Ecuador, the Organic Law on Elections and Political Organizations established a limit for contributions by natural persons, which should not be above 5 per cent of the total amount authorized for the electoral campaign. With regard to donations by a candidate, his or her contribution could be up to 10 per cent of the total amount of money authorized for the electoral campaign.

35. In other countries, including Brazil and Lithuania, the yearly limit was based on the actual earnings of the person or entity. In Brazil, the Law on Political Parties limited contributions of individuals to up to 10 per cent of their yearly gross income, while legal entities were limited to 2 per cent of their yearly gross revenue. Brazil noted that those limits, which were linked to income, allowed donors with higher incomes or revenues to make larger donations than the rest of the population, thus enabling them to exert greater influence on candidates and their policies.

36. Germany reported that it did not set a limit on contributions. Instead, the law required transparency and reporting obligations, such as detailed identification on the source of contributions above a certain threshold amount. Germany noted that, since contributions made to political parties were tax-deductible while donations

made to individual candidates without affiliation to a political party were not, most donors provided contributions to political parties.

37. In Sierra Leone, there was no provision in the Political Parties Act that set a ceiling or limit on donations to political parties. Similarly, in Nigeria, it was reported that, while the Independent National Electoral Commission had the power to place limits on the value of contributions, it had not yet done so.

#### **Public contributions to political parties and electoral campaigns**

38. Several States also referred in their submissions to public funding of political parties and electoral campaigns. Certain funds might be provided to support political parties while other funds were used only for expenditure associated with electoral campaigns. It was highlighted that public contributions were used to provide equity in the financing of political campaigns.

39. Argentina noted that there was a constitutional requirement to support political parties, both in their operations and for their capacity-building. Fifty per cent of Argentina's public funds allocated for a given election were disbursed equally among all participating political parties, with the remaining 50 per cent distributed among all parties in proportion to the percentage of votes obtained in the previous election. Argentina emphasized that this funding was important to limit the gaps in funding between different parties and to strengthen the capacities of smaller parties.

40. In Serbia, public funds were allocated to cover the costs of an electoral campaign and were shared equally among the candidates. Political parties that did not achieve a minimum percentage of votes were required to return the funds that had been granted. Serbia noted that the State could also give goods and services to candidates, provided that they were given in equal amounts to all political parties.

41. Morocco provided detailed information on its annual subsidies for political parties that were to be used for electoral campaigns and annual meetings of the parties. The subsidy was calculated according to the percentage of legislative votes, starting from 3 per cent. The Czech Republic reported that there were State subsidies for electoral campaigns and additional State subsidies for the activities of political parties, which were calculated on the basis of the percentage of votes in the Chamber of Deputies, provided that a threshold of 1.5 per cent and 3 per cent, respectively, had been satisfied.

42. In Brazil, the Special Fund for Financial Assistance to Political Parties was used to provide funds to political parties. It was emphasized that public funding served to reduce the dependence of parties and candidates on private resources, which might make them susceptible to economic influence, and also to balance electoral contests. Those funds were shared among parties based on the percentage of votes obtained in the previous election. Brazil noted that political candidates and parties were given free access to the media, as well as the use of public buildings for political party meetings.

43. According to the information received from OECD, all OECD countries except Switzerland provided direct public funding to political parties. Fifteen OECD members provided regular funding both to political parties and to their campaigns, while funding for political parties only was provided regularly in 15 countries and public funds were provided for electoral campaigns only in three countries. The

eligibility criteria for receiving public funds might depend, among other things, on the amount of votes in a previous election, representation in an elected body or the share of seats resulting from previous elections.<sup>5</sup>

#### **Limitations on expenditure during electoral campaigns**

44. In addition to limitations on contributions given to candidatures or political parties, States also addressed the issue of limitations placed on the amount of money that could be spent during an electoral campaign.

45. Several States, including Argentina, Denmark, Egypt, France, Lithuania, Nigeria, the State of Palestine and Venezuela (Bolivarian Republic of), reported that they imposed limitations on expenditure during electoral campaigns. A number of States reported on existing limitations on the amount of spending by political parties or during political campaigns. A few of them further elaborated on expenditure that was permissible, and whether political parties needed to report on the general amount of expenditure or in a detailed manner that allowed for scrutiny by oversight agencies and the public at large.

46. In Argentina, the Law on Financing of Political Parties set a limit on expenses that could be incurred during a political campaign. The legislation provided a formula for calculating the ceiling on expenditure, which took into account the number of eligible voters for the different categories of public offices for which candidates were being elected. In the event of a second round of voting, that limit on expenditure was decreased by half.

47. The Electoral Act in Nigeria provided that there was a limit on the amount of money that a candidate or political party could spend during an electoral campaign and that it was an offence to exceed that limit. Other States parties, like Egypt and the State of Palestine, reported that their legislation established limits on expenditure during political campaigns.

48. In contrast, a number of countries reported that they did not provide for any limitations on expenditure during electoral campaigns. The United States reported that it did not impose limitations on such spending, following a decision of its Supreme Court that struck down as unconstitutional a law that had imposed such limits.

49. Germany stated that it did not impose any limitations on expenditure during an electoral campaign. Instead, using the same approach as that taken in relation to limitations on contributions to candidatures and political parties, Germany required detailed reporting, which needed to be verified by a certified auditor and submitted to oversight authorities.

50. In practice, Brazil did not impose limitations on election expenditure. Instead, each political party had the responsibility to determine the amount of money it would spend in an election, both overall and for each candidate. While a specific law could be passed before 10 June in an election year to fix such a spending limit, it had never been done in practice. Brazil reported that, despite the fact that there

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<sup>5</sup> Organization for Economic Cooperation and Development (OECD), *Financing Democracy: Supporting Better Public Policies and Preventing Policy Capture* (2014), para. 13.



was no such spending limit, there were still problems with contributions not being properly recorded, likely owing to their illicit origin.

#### **Transparency in relation to funding and expenditure during electoral campaigns**

51. Many States, including Argentina, Brazil, Ecuador, Egypt, El Salvador, France, Germany, the Republic of Korea, Saudi Arabia, Serbia, Sierra Leone, Slovenia, the State of Palestine, Tunisia, the United States and Venezuela (Bolivarian Republic of), reported on the obligation of candidates and political parties to report publicly on funding received and expenditure made during electoral campaigns.

52. As noted, article 7, paragraph 3, of the Convention called upon States to consider taking appropriate measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties. In their submissions, States reported on public reporting of information related both to the funding of candidatures and political parties and to expenditure during electoral campaigns. The reporting took different forms, which could include yearly audited financial statements, the disclosure of contribution amounts and identification of donors, or financial reporting by a certain deadline following an election.

53. A number of States highlighted the importance of using information technology to facilitate reporting and to strengthen transparency and ease of access to such information. El Salvador, for example, had introduced transparency requirements by obliging political parties to allow public access through electronic means to its reports on public and private sources of financing. Similarly, in Brazil, the system for electoral campaign accountability allowed voters to obtain detailed information on the budgets and expenses of candidates and political parties via the Internet.

54. In Denmark, the Grants to Political Parties Act regulated the publicizing of the financial statements of political parties. Monetary contributions above a certain threshold amount from private sources had to be reported, with the name and address of the donor indicated.

55. In Lithuania, the Central Electoral Commission compiled information on donations to and expenditure of political parties, which was subsequently published on its website. The Commission was also responsible for reporting violations of rules concerning funding sources to the corresponding investigative and prosecution services.

56. As noted above, Germany reported that it placed an emphasis on transparency and reporting, as opposed to limiting contributions and expenditure. Political parties were required to account publicly for their income, assets and expenditure by filing a statement of accounts at the end of each calendar year. Those reports had to be independently audited and then submitted to the national parliament for publishing. There were additional requirements for immediate reporting of large contributions. National law specified in detail the structure of the statement of accounts. The President of the Bundestag prepared an annual report analysing all of the statements of account that had been submitted, and that report was also published.

57. In Slovenia, an amendment to the Political Parties Act that had entered into force on 1 January 2014 had introduced new requirements for the preparation and

submission of annual reports by political parties. The reports were required to contain information, broken down in detail, on all revenues, contributions, loans, expenditure and assets. Political parties were also required to submit their annual reports, through a web portal, to the Agency for Public Legal Records and Related Services, for publication on its website.

58. In Serbia, political parties were required to record each contribution received and to publish on their websites detailed information on donations above a certain amount. Furthermore, the Anti-Corruption Agency published reports on the cost of electoral campaigns, on the basis of information received from political parties. In addition, the Agency was entitled to a specific proportion of the national budget in order to conduct monitoring and reporting on electoral campaigns.

59. In Saudi Arabia, an elected candidate had to provide a statement of all sources of funding obtained during the campaign to the local committee for elections within a maximum period of 10 days from the day of the announcement of the result of the election. In Nigeria, political parties were required to report on both contributions and election expenditure within three and six months, respectively, after the election.

60. In the Republic of Korea, accounting reports on revenues and expenditure of political funds in non-presidential elections had to be submitted within 30 days after the election; accounting reports relating to presidential elections had to be provided within 40 days after the election. Those accounting reports were published on the Internet or made available as printed copies, upon request.

61. The Czech Republic reported that it was in the process of implementing reforms in order to increase transparency in relation to the funding of political parties, following an assessment conducted by the Ministry of the Interior. The reform would require the submission of annual financial statements containing more detailed information on all legal sources of income and on expenditure during electoral campaigns. New rules would also be instituted to ensure the independence of the auditors of those financial statements.

## **C. Oversight and enforcement mechanisms relating to the funding of candidatures and political parties**

### **Institutional oversight and enforcement mechanisms**

62. A number of States, including Argentina, Brazil, the Czech Republic, France, Morocco, the Republic of Korea, Serbia, Sierra Leone, Slovenia, the United States and Venezuela (Bolivarian Republic of), provided detailed information on the mechanisms in place to provide oversight and enforce rules relating to the funding of candidatures and political parties.

63. The submissions of States revealed that, in addition to parliamentary oversight, countries had also chosen oversight by other kinds of institutions. A number of States parties had established electoral bodies tasked with such functions. Other countries, such as Morocco and Slovenia, had entrusted an oversight role to the judiciary, including specific audit courts within the judiciary. In the case of Serbia, the Anti-Corruption Agency had been entrusted with conducting oversight of political funding and monitoring electoral campaigns. In most cases, the body given

the oversight role was also entrusted with enforcement when violations were detected.

64. In France, the national commission on campaign and political financing accounts was an independent administrative authority responsible for verifying the accounts and finances of political parties. The Commission reported on an annual basis to the Government about those parties which had breached rules on funding and should be sanctioned by losing access to public funds in the following year.

65. In the event of a criminal offence, the Commission would refer the matter to the prosecution services. France indicated that, earlier in 2014, judicial proceedings had been commenced in relation to allegations of illicit financing and trading in influence involving a member of the public and an elected public office holder.

66. In the United States, the Federal Election Commission audited the financial disclosure reports and underlying records of political committees, as well as those of all presidential campaigns that received public funds. The Commission facilitated disclosure of campaign finance reports by publishing on its website both the reports it received and its own analysis and data relating to those reports. The Commission further clarified the Federal Election Campaign Act by issuing regulations, advisory opinions and other forms of guidance.

67. The Federal Election Commission also possessed enforcement powers, since it had civil jurisdiction to enforce the Federal Election Campaign Act, including powers to investigate and file suit in a federal court. In addition, the Commission had the authority to impose civil penalties directly in cases in which a political party had failed to file a report on time or at all. Finally, the Commission could refer cases involving knowing and wilful violations of the Act to the Department of Justice for criminal prosecution.

68. In the Republic of Korea, the National Elections Commission was an independent agency whose existence was enshrined in the Constitution, with a mandate to oversee the accounting of candidates that ran for public office. According to the statistics provided, between 2011 and 2013 the Commission had found more than 800 breaches of rules on transparency and reporting; as a result, 47 criminal reports had been submitted to police investigators; the remaining infractions had led to the issuance of warning notices or referrals to police for further action.

69. In Sierra Leone, the Political Parties Registration Commission was the regulatory body for political parties in the country. The Political Parties Act had established the Commission to register political parties and to oversee their operations by supervising and monitoring them, as well as by offering mediation of disputes between or among the leadership of political parties.

70. Nigeria reported that the Independent National Electoral Commission was constitutionally empowered to register political parties and to receive reports on donations and expenditure. The Commission was also empowered to monitor and keep records of the activities of registered political parties. It did not, however, have prosecutorial powers and had never referred any complaint to the Attorney-General of the Federation for prosecution.

71. Several States reported that oversight of political funding and expenditure was provided by a court. In Slovenia, the Court of Audit had the authority to undertake

monitoring and conduct oversight and administrative inquiries regarding the funding of political parties and campaigns. A recent legal reform had enhanced the oversight powers of the Court, which could now request the submission of documents and explanations and inspect accounting books and records from service providers and sellers of goods to the organizers of electoral campaigns. Slovenia observed that the Court would require adequate resources to use those enhanced legal powers to effectively implement its mandate as required by the law.

72. In Morocco, the Court of Audit also had the mandate to oversee the income and expenditure of political parties that received public funds. The Court could order the reimbursement of public funds or the rectification of any irregularities. Candidates were required to submit a statement of accounts and corresponding supporting documents to the Court within a month of the date of an election. Following a report from the Court of Audit on the financing of political campaigns, which outlined measures for the improvement of auditing, the Moroccan anti-corruption agency had provided recommendations to the Government on how to strengthen accountability and transparency measures in that area.

73. Brazil stated that the Electoral Court was responsible for inspecting the accounts and financial reports of candidates and political parties, both annually and following elections, and for overseeing compliance with legal requirements.

74. In Serbia, it was the Anti-Corruption Agency that monitored the annual financial statements of political entities and political campaigns. The Agency was entitled to specific allocations, as needed, from the national budget to cover the additional costs of that work. As part of its oversight procedures, the Agency was granted direct and unimpeded access to the bookkeeping records and documentation of political entities. It could also engage relevant experts and institutions and request information from State authorities, banks and persons that made financial contributions to political parties.

75. During 2012, the Anti-Corruption Agency had conducted independent monitoring of the electoral campaigns and produced an initial report on the oversight of political entities and costs of the 2012 electoral campaigns. As a result of oversight procedures relating to the financial statements of political parties, the Agency could submit a request to the State Audit Institution to formally audit those statements.

76. Some States identified a number of challenges in relation to the effective functioning of oversight and enforcement mechanisms. States highlighted the need for those mechanisms to ensure prompt access to relevant information regarding political financing and the cross-checking of data in order to improve oversight of funding and expenditure in a timely manner. States further emphasized that enhanced transparency and accountability in relation to the funding of candidates and political parties and electoral expenditure required adequate resources.

77. Recent legal reforms, like those undertaken in Slovenia, would now need to be accompanied by corresponding resources in order to fully implement them.

78. Serbia provided information on its technical assistance needs. In particular, the Anti-Corruption Agency indicated that it required technical assistance in the area of information technology to develop and implement software that would be able to cross-check the information it received with that available from other State

institutions. That would allow for more efficient oversight of the funding of political parties and campaigns and the asset declarations of public officials, as well as the detection of conflicts of interest. Similarly, Ecuador identified a need for technical assistance to enhance effective and timely oversight of the financing of political campaigns.

### **Sanctions**

79. Several States, including Argentina, the Czech Republic, Ecuador, France, Germany, Serbia, Slovenia, the State of Palestine, the United States and Venezuela (Bolivarian Republic of), provided information on a variety of foreseeable sanctions for failure to comply with regulations on the financing of candidatures and political parties and on expenditure during electoral campaigns. States reported that such sanctions might consist of fines, the confiscation of illicit contributions or their compulsory transfer to a charitable organization, the loss of public subsidies or deregistration. States further referred to criminal sanctions for more serious matters, which could include imprisonment, fines as part of criminal punishment or the deregistration of a political party.

80. In France, a finding by the national commission on campaign and political financing accounts that a political party or political group had failed to comply with its legal obligations would lead to a withdrawal of public funding in the following year.

81. As a result of a recent amendment of the Political Parties Act in Slovenia, fines of up to €30,000 could be imposed for contributions that contravened the law on political parties. If a political party was found to have received an illicit contribution, it would be required to allocate that contribution to a charity organization within 30 days of having received it.

82. In Serbia, sanctions for failure to comply with the rules governing campaign finance might consist of the issuance of a warning, suspension of the transfer of public funds as an administrative measure and/or loss of entitlement to public funds in the subsequent year. An illicit contribution to a political campaign that was intended to conceal the funding source and the amount of the contribution would be treated as a criminal offence and be subject to criminal jurisdiction. Similarly, violence or threats to commit violence against a contributing person were also punishable as a criminal offence.

83. In the Czech Republic, the failure of a political party to submit its annual financial report or the submission of an incomplete report could lead to the suspension of public funding. In the event of a failure to comply with rules governing donations, a fine was imposed by the tax authority. Should a political party repeatedly fail to submit its annual financial reports or act in such a way that was in conflict with the principles of funding of political parties, the activities of such a party could be suspended by the Supreme Administrative Court, upon receipt of a motion from the Chamber of Deputies. The Czech Republic provided detailed statistics indicating that, between 1996 and 2010, there had been more than 20 instances of parties being dissolved and 48 instances of activities of parties facing suspension.

84. In 2012, as a result of a successful application by the Political Party Registration Commission of Sierra Leone to the Superior Court of Judicature, a total

of 24 political parties had been deregistered because of non-compliance with the Electoral Law of 2000, the Political Parties Act of 2002 and the implementing regulations pertaining thereto.

#### **Awareness-raising and capacity-building**

85. Some States reported on their obligation to provide for the capacity-building of political parties, particularly in relation to the rules pertaining to their financing and operations. In Argentina, the Constitution required the State to provide capacity-building to political parties. In turn, political parties were required to report publicly on their income and use of funds. In the Bolivarian Republic of Venezuela, State authorities were also responsible for building the capacity of political parties.

86. States highlighted that one of the challenges they faced was the need for awareness-raising among political parties and candidates regarding the rules and regulations aimed at enhancing transparency in the funding of political parties and campaigns. It was noted that, in some countries, there was a certain resistance by political candidates and parties to participating in events organized by the competent authorities.

87. Morocco further identified needs for technical assistance to build the capacity of electoral candidates and political parties, particularly in relation to training on financial management and the rules in place on the financing of electoral campaigns, as well as for the development of a code of ethics for political campaigns.

#### **D. Criteria concerning candidature for and election to public office**

88. A few States addressed the implementation of article 7, paragraph 2, relating to the criteria that States should consider prescribing concerning candidature for and election to public office. States highlighted the existence of a regulatory legal framework that set out conditions for running for public office, whether through individual application to run for public office or as a candidate of a political party or a coalition of parties.

89. In Lithuania, independent candidates were allowed to run for public elected office, while in Germany candidates in parliamentary elections were nominated by political parties. In Saudi Arabia, the law set out criteria for candidates for municipal councils.

90. In the Bolivarian Republic of Venezuela, the Constitution provided for the right of citizens to run as candidates for elected public office on their own initiative or to be nominated through organizations that had a political purpose. While all citizens who could read and write could run for public office, there were certain exceptions set out in law, including a prohibition on those persons who had been convicted of a criminal offence involving public finances.

## **E. Public sector legislative and administrative measures**

91. A number of States, including Bosnia and Herzegovina, China, Denmark, France, Saudi Arabia and Sierra Leone, provided general information concerning the implementation of legislative and administrative measures related to the public sector and in furtherance of the implementation of article 7, paragraphs 1 and 4, of the Convention.

92. A number of countries, including China, Denmark and Saudi Arabia, reported that they had established systems for the recruitment of civil servants based on transparency and merit. China stated that civil servants for non-leading positions, at or below the level of senior section member, must be recruited and employed through open examination, review, competition on an equal footing and selection on merit. China emphasized that it had upgraded the standards and improved procedures with regard to the establishment of qualification criteria, written examinations, interviews, reviews and medical exams. Policies, employment plans and qualifications were communicated to the public to allow for its oversight.

93. Saudi Arabia reported that regulations had established merit as the basis for the selection of staff in the public sector, required annual performance assessments for civil servants and mandated that vacancies be announced publicly. The Ministry of Civil Service had established procedures for recruitment, while specific legislative and administrative measures regulated requirements relating to qualifications and integrity for the justice system, members of the investigation bureau and the staff of the anti-corruption commission.

94. China and Saudi Arabia referred to training programmes that had been developed for civil servants. China reported that training courses on the risks of corruption were offered to civil servants at different levels in order to raise awareness of the risks of corruption and to promote strict adherence to professional ethics in the civil service. Induction training and other in-service training sessions were also provided to the entire civil service. Specialized training programmes were provided to those who had recently been promoted to leadership positions and to those whose positions required particular skills. Saudi Arabia reported that all ministries and departments were required by law to allow for the training of staff in their respective fields of work.

95. Bosnia and Herzegovina reported that its Ministry of Justice was developing an integrity plan for its staff. As a measure to enhance transparency, Denmark referred to its Act on Public Administration, according to which every person was entitled to access to documents received or created by an administrative authority in the context of administrative proceedings.

96. France reported that it had undertaken a number of legislative measures aimed at preventing corruption and enhancing transparency in the public sector. Recent legislation on combating fiscal fraud and economic crime provided for measures to enhance protection for those who reported instances of corruption to the authorities. France also reported that there was legislation in place to prevent retaliation against public officials who reported in good faith on cases of corruption of which they became aware in the exercise of their functions.

97. Denmark reported that its Access to Public Administration Files Act set out provisions to prevent conflicts of interest in order to ensure the impartiality of its public employees. Similarly, Saudi Arabia referred to administrative measures that had been taken to regulate conflicts of interest and to set out prohibitions for civil servants in order to prevent such conflicts from arising.

98. Saudi Arabia emphasized that internal audit units had been established in all ministries and that the head of each unit reported directly to the respective minister. Further information provided by Saudi Arabia highlighted transparency as a key principle of the national anti-corruption strategy. As part of that strategy, the anti-corruption commission had a mandate to review internal mechanisms, raise awareness of prevention of corruption, receive complaints and channel them through the appropriate authorities, and collect annual statistics.

99. As part of other measures to combat corruption, the Anti-Corruption Commission of Sierra Leone provided information that, as part of its determination to work closely with other institutions on integrity matters, that agency had signed memorandums of understanding with the Audit Service of Sierra Leone, the Parliamentary Committee on Transparency and Accountability and the Sierra Leone Association of Journalists. At the regional level, it had established partnerships with the Association of Anti-Corruption Agencies in Commonwealth Africa and the network of anti-corruption institutions in West Africa.

### **III. Conclusions and recommendations**

100. The information contained in the present report highlights the breadth of the legislative and administrative measures that have been taken by States to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties, in accordance with article 7, paragraph 3, of the Convention against Corruption. The reporting States generally adopted a comprehensive approach in relation to funding, addressing the sources of funding, monetary limits on the amount of funds that may be provided by a donor, limitations on campaign expenditure and the use of public funds for political parties and electoral campaigns.

101. A further theme that emerged is the importance of effective oversight and enforcement mechanisms. Countries have given that responsibility to different institutions, including specialized electoral commissions, courts and anti-corruption agencies. In all cases, it is clear that those bodies must have the necessary resources and powers to be able to perform their oversight mandate and carry out enforcement, or to refer matters to appropriate authorities who do in the event of any breaches. While some countries reported successful practices in terms of enforcement, others noted that such systems could be further strengthened.

102. Additional information was provided by some States in relation to paragraphs 1 and 4 of article 7, which highlighted the importance of promoting an efficient, transparent and accountable public service.

103. As part of its discussions, the Working Group may wish to consider how States can continue to strengthen public sector legislative and administrative measures,



including measures to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

104. The Working Group may further wish to recommend to States parties that they strengthen the exchange of information on anti-corruption practices to enhance transparency in the funding of candidatures for elected office and, where applicable, political parties and their campaigns.

105. The Working Group may wish to request UNODC to continue its efforts to gather information on good practices related to enhancing the transparency of candidatures to public elected office and the funding of political parties, particularly in preparation for the next implementation review cycle.

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