



FOLLOW-UP MECHANISM FOR THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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PARAGUAY

FINAL REPORT

(Adopted at the March 11, 2016 Plenary Session)

SUMMARY OF THE REPORT

This report contains a comprehensive analysis of the implementation of the recommendations issued for Paraguay in the Second Round report in connection with Article III, paragraphs 5 and 8, of the Inter-American Convention against Corruption, which deal, respectively, with systems for government hiring and the state procurement of goods and services, and with the protection of public officials and private citizens who in good faith report acts of corruption, together with the criminalization of the acts of corruption set out in Article VI thereof, and referring, as applicable, to new developments that have arisen with the implementation of those provisions.

In addition, the report includes a comprehensive analysis of the implementation in Paraguay of Article III, paragraphs 3 and 12, of the Convention, which deal, respectively, with measures intended to create, maintain, and strengthen instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them, and with the study of further preventive measures that take into account the relationship between equitable compensation and probity in public service, which were selected by the MESICIC Committee of Experts for the Fifth Round; it also refers to the good practices reported by the State with respect to the implementation of the provisions selected for the Second and Fifth Rounds.

The analysis were conducted in accordance with the Convention, the Report of Buenos Aires, the Committee's Rules of Procedure, and the methodologies it has adopted for conducting on-site visits and for the Fifth Round, including the criteria set out therein for guiding the analyses with equal treatment for all the States Parties, functional equivalence, and the common purpose of both the Convention and the MESICIC of promoting, facilitating, and strengthening cooperation among the States in the prevention, detection, punishment, and eradication of corruption.

To conduct the analyses, use was made chiefly of Paraguay's response to the questionnaire and of the information gathered during the on-site visit made to the country on September 30 to October 2, 2015, by the representatives of Guyana and the Dominican Republic during which, with the support of the MESICIC Technical Secretariat, the information provided by Paraguay was elucidated, clarified, and expanded upon and the opinions of civil society organizations, the private sector, and professional associations regarding the topics under review were heard.

As regards the implementation of the recommendations formulated for Paraguay in the Second Round report that the Committee found to require additional attention in the Third Round report, based on the methodology for the Fifth Round and bearing in mind the information provided in the response to the questionnaire and during the on-site visit, the Committee determined which of those recommendations had been satisfactorily implemented, which required additional attention, which needed reformulating, and which were no longer current.

As regards government hiring systems, the following developments are of relevance: the implementation of the "*Paraguay Concursa*" Single Public Employment Portal, the launch of the Integrated Centralized Administrative Career System (SICCA), and the adoption of the General Selection Regulations for entry into public service, in permanent and temporary positions, by means of public competitions for vacancies and promotions in the central administration.

As regards systems for the government procurement of goods and services, it is noteworthy that Paraguay has implemented the Public Procurement Information System of the Republic of Paraguay, which is run by the National Directorate of Public Procurement (DNCP) and is intended to regulate, increase the transparency of, and optimize the public procurement system; and that it has also launched an electronic dutch auction system in which bids are made at public sessions using an internet-connected computer system that is administered by the DNCP.

As regards the protection of public officials and corruption whistleblowers, Paraguay has created the Program to Accompany and Protect Witnesses and Victims in Criminal Proceedings, and it has embarked on the amendment of Law 4083/2011, the legislation whereby it was created, in order to bring it into line with international standards.

Some of the recommendations served on Paraguay during the Second Round that remain pending or that have been reformulated address such topics as the implementation of provisions to ensure that all the organs and entities of the State are equipped with oversight mechanisms and with lead authorities responsible for overseeing compliance with the personnel selection rules; the development of mechanisms for publicizing public service vacancy opportunities in all the organs and entities of the State; the strengthening of the lead agencies for the public sector hiring system; the development and implementation of a regime of sanctions for those public officials and employees who fail to abide by or violate the principles and provisions of the Public Contracting Law; the implementation of mechanisms or systems for the periodical rendering of accounts by both suppliers and contractors and by the people or agencies responsible for the supervision, control, and oversight of contracts, guaranteeing that they are made public; the adoption of comprehensive regulations governing the protection of public officials and private citizens who in good faith report acts of corruption, including the protection of their identities, in accordance with the Constitution and the basic principles of the domestic legal order, taking into account the criteria established in the “*Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions*,” which is available on the Anti-Corruption Portal of the Americas; and the development, by the judiciary and the Public Prosecution Service (MP), of procedures and indicators to analyze the results of systems, provisions, measures, and mechanisms related to their powers of investigating, prosecuting, and punishing acts of corruption.

In addition, as regards new developments in Paraguay with the implementation of the Convention provisions selected for the Second Round, the Committee formulated for its consideration recommendations for the State to update, in its legislation, the definition of who is to be considered a civil servant, to bring it into line with the definitions of public servant and public service enshrined in the Convention; to provide the Civil Service Secretariat with the human, technological, and financial resources required, within the available resources, to ensure the sustainability of the Integrated Centralized Administrative Career System (SICCA); to adopt the relevant regulatory measures to provide binding guidelines for assessing the legal capacity of bidders in public contracting processes, addressing all the grounds for disqualification set out in the Public Service Law; to regulate the composition, duration, and functioning of the Evaluation Committees; to modify the DNCP’s institutional web site, using a user-friendly design to enable filters and comparisons at all stages of the contracting process, including follow-up on contract execution by supplier and by contract, so that the public can monitor all those processes; to include the historical records of disqualified contractors on the DNCP’s institutional web site, so that the appropriate follow-up can be conducted; to bring Law 4083/2011, which created the Program to Accompany and Protect Witnesses and Victims in Criminal Proceedings, into line with international standards; and to modernize the computer system of the Statistics Directorate, to enable data extraction and the breakdown of information and to permit the keeping of specific statistics on the judiciary’s function of imposing sanctions for acts of corruption.

For the analysis of the first provision selected for the Fifth Round, which deals with giving instructions to government personnel for the proper understanding of their responsibilities and the ethical rules governing their activities, as set out in Article III, paragraph 3, of the Convention, in accordance with the methodology for this Round, the State under review chose the Civil Service Secretariat (SFP), the Public Prosecution Service (MP), and the Judiciary (PJ), believing that their institutional and regulatory developments were of relevance and representative of the array of entities and institutions that exist in Paraguay.

This analysis was aimed at determining whether, as regards those groups of personnel, provisions and/or measures had been adopted to ensure their proper understanding of their responsibilities and the ethical rules governing

their activities, the way and occasions on which those instructions are given, the programs provided for that purpose, the agencies with responsibilities in the matter, and the objective results obtained through the enforcement of those provisions and/or measures governing the activities of the institutions' personnel, taking note of the difficulties and/or weaknesses in achieving the goal set by this Convention provision.

Some of the recommendations formulated for consideration by Paraguay in connection with those issues were geared toward objectives including the following:

As regards the personnel of the central administration, adopt the budgetary and other measures necessary, within the available resources, to offer induction, refresher, and continuous training courses to all the employees of the organs and entities of the State, regardless of their hiring status, in order to ensure their proper understanding of their responsibilities and the ethical rules governing their activities; and establish the National Public Ethics Commission, providing the SFP with the budgetary resources required for that purpose, within the available resources, and undertaking the relevant coordination with civil society organizations and the private sector, taking into consideration the importance of that Commission's functions in complying with the purposes of Article III, paragraph 3, of the Convention.

As regards the MP, providing the Public Prosecution Service Training Center (CEMP) with the human, technological, and budgetary resources required, within the available resources, so that it can discharge its duties in full and provide as many employees as possible with the necessary training to ensure their proper understanding of their responsibilities and the ethical rules governing their activities.

As regards the judiciary, strengthen the Office of Judicial Ethics, providing it with the human and budgetary resources necessary for it to fully discharge its duties in the training and induction of its officers as regards the proper understanding of their responsibilities and the ethical rules governing their activities, within the available resources.

In accordance with the aforesaid methodology, the analysis of the second provision selected for the Fifth Round, set forth in Article III, paragraph 12, of the Convention, was geared toward determining whether the State has studied preventive measures that take into account the relationship between equitable compensation and probity in public service and whether it has established objective and transparent criteria for determining the remuneration paid to public servants; it was recommended that Paraguay consider taking the steps needed to adopt a wage policy law that establishes, as a minimum, objective criteria for equitable compensation in all the public sector.

**COMMITTEE OF EXPERTS OF THE FOLLOW-UP ON THE IMPLEMENTATION OF THE
INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

**REPORT ON IMPLEMENTATION IN THE REPUBLIC OF PARAGUAY OF THE CONVENTION
PROVISIONS SELECTED FOR REVIEW IN THE FIFTH ROUND,
AND ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO
THAT COUNTRY IN THE SECOND ROUND¹**

INTRODUCTION

1. Content of the report

[1] As agreed upon by the Committee of Experts (hereinafter “the Committee”) of the Follow-up Mechanism for Implementation of the Inter-American Convention against Corruption (hereinafter “MESICIC”) at its Twenty-fourth Meeting,² this report will first refer to follow up on the implementation of the recommendations formulated to the Republic of Paraguay in the report from the Second Round of Review,³ and which were deemed by the Committee to require additional attention in the report from the Third Round.

[2] Second, where applicable, it will refer to new developments in the Republic of Paraguay with regard to the Convention (hereinafter “the Convention”) provisions selected for the Second Round, in such areas as legal framework, technological developments, and results, and will proceed to make any necessary observations and recommendations.

[3] Third, it will address the implementation, in the Republic of Paraguay, of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts of the MESICIC for the Fifth Round of Review. These provisions are as follows: Article III, paragraphs 3 and 12, regarding, respectively, the measures relating to “[i]nstruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities” and to “[t]he study of preventive measures that take into account the relationship between equitable compensation and probity in public service.”

[4] Fourth, it will refer to the best practices that the country under review wished to voluntarily share regarding the implementation of the provisions of the Convention selected for the Second and Fifth Rounds.

2. Ratification of the Convention and adherence to the Mechanism

[5] According to the official records of the OAS General Secretariat, the Republic of Paraguay ratified the Inter-American Convention against Corruption on November 29, 1996, and deposited the respective instrument of ratification on January 28, 1997.

[6] In addition, the Republic of Paraguay signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2001.

I. SUMMARY OF THE INFORMATION RECEIVED

¹ This report was adopted by the Committee in accordance with the provisions of Articles 3 (g) and 25 of the Committee's Rules of Procedure, at the March 11, 2016 plenary session, within the framework of the Twenty-sixth Meeting of the Committee, held at OAS headquarters in Washington, D.C., from March 7 to 11, 2016.

2. Available at: http://www.oas.org/juridico/docs/XXIV_min.doc.

3. Available at: http://www.oas.org/juridico/english/mesicic_III_rep_pry.pdf.

1. Response from the Republic of Paraguay

[7] The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Republic of Paraguay and in particular, from the Public Prosecution Service (*Ministerio Público – MP*), which was evidenced, inter alia, in its reply to the questionnaire, in the constant willingness to clarify or complete its contents, as well as in the support provided for execution of the on-site visit referred to in the following paragraph. Together with its response, Paraguay sent the provisions and documents it considered pertinent.^{4/}

[8] The Committee also notes that the State under review granted its consent for an on-site visit, in keeping with provision 5 of the *Methodology for Conducting On-Site Visits*.^{5/} That visit was conducted from September 30 to October 2, 2015, by the representatives of Guyana and the Dominican Republic, in their capacity as members of the Review Subgroup, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this report and the agenda for the visit is attached hereto, in accordance with provision 34 of the *Methodology for Conducting On-Site Visits*.

[9] For its review, the Committee took into account the information provided by Paraguay up to October 2, 2015, and that furnished and requested by the Secretariat and the members of the Review Subgroup to carry out its functions, in accordance with the *Rules of Procedure and Other Provisions, the Methodology for Follow-up on the Implementation of the Recommendations Formulated and Provisions Reviewed in the Second Round and for the Analysis of the Convention Provisions Selected for the Fifth Round*, and the *Methodology for Conducting On-Site Visits*.^{6/}

2. Documents and information received from civil society organizations and/or, inter alia, private sector organizations, professional organizations, and academics and researchers

[10] The Committee did not receive documents or information from civil society organizations within the time frame established in the schedule for the Fifth Round, any pursuant to Article 34 (b) of the Committee's Rules of Procedure.

[11] Nonetheless, during the course of the on-site visit to the State under review, information was gathered from the civil society organizations and professional associations invited to participate in meetings to that end, pursuant to Article 27 of the *Methodology for Conducting On-Site Visits*. A list of those persons is included in the agenda for the visit, which is attached as an annex to this report. Pertinent parts of this information are reflected in the appropriate sections of the present report, as appropriate for its purposes, as appropriate.

II. FOLLOW-UP ON THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE SECOND ROUND AND NEW DEVELOPMENTS IN RELATION TO THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THAT ROUND

[12] First, the Committee will refer below to the progress made, information, and new developments reported on by Paraguay in relation to the recommendations formulated and the measures suggested by the Committee for implementation in the report on the Second Round^{7/} and on those that the Committee deemed required additional attention in the report from the Third Round;^{8/} note will be taken of any that have been given satisfactory

4. Said response and the provisions and documents are available at:

http://www.oas.org/juridico/spanish/mesicic5_pry.htm.

5. Document SG/MESICIC/doc.276/11 rev. 2, available at:

http://www.oas.org/juridico/english/met_onsite.pdf.

6. This information is available at: http://www.oas.org/juridico/spanish/mesicic5_pry.htm.

7. Available at: http://www.oas.org/juridico/spanish/mesicic_II_inf_pry.pdf.

8. Available at: http://www.oas.org/juridico/spanish/mesicic3_pry_sp.htm.

consideration and of those requiring additional attention by the State under review; and, if applicable, reference will be made to the continued validity of those recommendations and measures and to their restatement or reformulation, in keeping with Section V of the *Methodology* adopted by the Committee for the Fifth Round.^{9/}

[13] In this section, the Committee will, where applicable, also take note of the difficulties identified by the State under review in implementing the recommendations and measures referred to in the preceding paragraph, as well as to any technical cooperation requested to that end.

[14] Second, reference will be made to the new developments reported on by Paraguay in relation to the provisions of the Convention selected for the Second Round, on such matters as normative framework, technological developments, and results, and, as appropriate, any necessary observations and recommendations will be made.

1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III, PARAGRAPH 5 OF THE CONVENTION)

1.1. Systems of government hiring

1.1.1. Follow-up on implementation of the recommendation formulated in the Second Round

Recommendation 1.1:

Establish, maintain, and strengthen government hiring systems that assure the openness, equity, and efficiency of such systems.

Measure a) which requires further attention under the terms envisaged in the report from the Third Round:

Taking into account the existing legal initiative, adopt a legal instrument, applicable to all public servants, that governs civil service hiring systems based on principles such as merit and equality, that ensures the legitimacy and transparency of the public competitive examination, without prejudice to the possibility, in keeping with the rule of separation of powers and the existence of autonomous entities and bodies, of creating other systems for certain public servants whose nature and responsibilities require more specific provisions, such as the exception under Article 1 of the Law against Nepotism in the Civil Service (Law 2777/2005).^{10/}

[15] In its response, the State under review presents information and new developments in relation to the preceding measure,^{11/} among which the Committee highlights the following as steps contributing to progress in its implementation:

[16] The adoption of the following legal and technological instruments:

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9. The list of recommendations that, following this review, still warrant additional attention or have been reformulated is contained in Appendix I to this report.
 10. Article 1 of the Law against Nepotism in the Civil Service (Law No 277/2005). - *“The President of the Republic, the Vice President of the Republic, the Presidents of the Chambers of Senators and Deputies, the Justices of the Supreme Court of Justice, Members of the High Court of Electoral Justice and of the Council of the Magistrature, the Prosecutor General of the State, the Comptroller General of the Republic, the Defender of the People, presidents of independent and decentralized entities, and governors and superintendents may not appoint directly to public non-elective posts relatives up to the fourth degree of consanguinity and the second degree of affinity, with the exception of appointments made in the context of public competitions.”*
 11. Response of Paraguay to the questionnaire for the Fifth Round, p. 30.

[17] - Decree 1212/2014, *which approves the implementation of the Single Public Employment Portal, "PARAGUAY COMPETES – AND THE LAUNCHING OF THE CENTRALIZED INTEGRATED ADMINISTRATIVE CAREER SERVICE – SICCA."*

[18] - Resolution SFP No. 1221/2014, *which approves and establishes the General Selection Regulations for Entry and Promotion in the Civil Service, in permanent and temporary posts, through open competitive examinations, competitive examinations, and merit-based competitions, in accordance with Articles 15, 25, 27, and 35 of Law No. 1.626/2000, "On the Civil Service."*

[19] -The Single Public Employment Portal (PUEP), known as "Paraguay Competes."^{12/}

[20] On this point, during the on-site visit, the representatives of the Civil Service Secretariat (SFP) provided further information on the nature and implementation of the aforementioned law and instruments.

[21] Accordingly, Article 2 of Resolution SFP No. 1221/2014 establishes that:^{13/}

[22] *"The present resolution shall apply to all Government Bodies and Agencies, in keeping with Article 1 of Law No. 1.626/2000, "On the Civil Service."*

[23] *"It shall cover the entry and promotion of public servants under the administrative career service or the civil service. Likewise, it shall cover municipal personnel, in keeping with Law No. 3.161, of March 26, 2007, "which establishes that Law No. 1.626/2000 'On the Civil Service,' applies to officials and staff of the Armed Services of the Nation"*

[24] In this connection, the Committee wishes to recall that the measure under this recommendation originated in the analysis conducted on the matter in the Second Round, on the basis of the information presented by the State under review itself, to the effect that:^{14/}

[25] *"... several provisions of Law No. 1.626/2000 were attacked as unconstitutional before the Supreme Court of Justice by representatives of government organs, agencies, bodies and agencies, as well as by trade union representatives and public servants of those government offices. This situation led the Supreme Court, through its Constitutional Chamber, to grant provisional measures suspending the effects of the attacked provisions in favor of only those who opposed the aforesaid provisions."*

[26] *"Among the contested provisions is that contained in Article 145, which abolishes the Public Servant Law (Law No. 200/1970), a law that was brought back into effect, giving rise to the existence of two laws governing the civil service. According to the final report of the consultant on preparation of the Plan of Action for Implementation of the Recommendations on Compliance with the Inter-American Convention against Corruption, this situation "has led to chaotic situations where public servants are governed by one law or the other, depending on whether or not they brought an unconstitutionality action against the Law"*^{15/}

[27] It also bears mentioning that the complainants include various government bodies, such as the Office of the Comptroller General of the Republic (CGR), the Public Prosecution Service (MP), and the Judiciary, and that this

12. www.paraguayconcurso.gov.py.

13. See Resolution SFP No. 1221/2014 at http://54.207.3.16/sfp/archivos/documentos/Resol%20SFP%201221%2014_7fl4sotz.pdf.

14. Report of Paraguay on the Second Round of Review, p. 4.

15. This report was drawn up under the technical cooperation project to support the Republic of Paraguay in its implementation of the recommendations formulated to it by the Committee of Experts of the MESICIC in relation to the provisions selected for review in the framework of the First Round, with technical support from the OAS General Secretariat and under the auspices of the Canadian International Development Agency (CIDA).

situation has not yet been resolved since the Supreme Court of Justice (CSJ) has not yet ruled on all cases, as may be seen in Paraguay's analysis in the framework of the Fourth Round, where the Committee made recommendations in this regard. Consequently, none of these bodies is governed by the Civil Service Law (LFP) nor are they under the jurisdiction of the SFP as the body monitoring human resource management policies¹⁶.

[28] In view of the foregoing considerations, the Committee takes note of the progress made by the State in implementing the above measure as well as of the need to continue giving attention to it, since the instruments adopted do not in practice apply to all public servants (see recommendation 1.1.3.1 of section 1.1.3. of Chapter II of this report).

Measure b) which requires further attention under the terms envisaged in the reports from the Third Round:

Taking into account the existing legal initiative, implement provisions on the creation of oversight mechanisms and governing or administrative authorities to monitor compliance with staff selection standards, and ensure they have the necessary resources to function properly.

[29] In its response, the State under review presents information on the above measure, noteworthy among which is the following:¹⁷

[30] *“The SFP, as the governing body for human resource management policy, has from the outset been the only body in the public administration to approve profiles and evaluation matrices for competitions and to ensure from the start that the terms and conditions of calls for applications and the selection committee's procedures and criteria ARE NOT DISCRIMINATORY IN NATURE. It is therefore the body that is responsible for ensuring the existence of inclusive and nondiscriminatory criteria throughout the procedure.”*

[31] In the same response, the State under review adds that the SFP is the governing body of the Centralized Integrated Administrative Career System (SICCA).

[32] In this regard, the Committee notes that although, pursuant to the present Civil Service Law, the SFP is the body in charge of human resource management policy in the public administration, this law has been appealed on grounds of unconstitutionality, thus leaving the same legal void that was detected in previous rounds and that gave rise to this recommendation.

[33] Furthermore, as concerns the matter of necessary resources for it to properly perform its functions, the State under review pointed out, among its difficulties, the following:

[34] *“At present, despite the high technical and professional level of the SFP staff and management, it does not have a sufficient number of people to process and handle the overall demand of the Paraguayan public institutions. In addition, there is a shortage of necessary technological equipment to support the SICCA system in the long term.”*

[35] This information was corroborated by the SFP representatives during the on-site visit.

[36] It should be mentioned that this shortage of human and budgetary resources in the SFP was already detected during the Fourth Round review, in which the oversight bodies were examined and in which the Committee took note of the following in the section on the adequacy of the legal framework.^{18/}

¹⁶ Supreme Court agreement and judgment No. 122/2014, ruling Law 1626/2000 inapplicable to the Public Prosecution Service.

Supreme Court agreement and judgment No. 1523/2013, ruling Law 1626/2000 inapplicable to the CGR.

Supreme Court agreement and judgment No. 1534/2013, ruling Law 1626/2000 inapplicable to the CSJ.

¹⁷ Response of Paraguay to the questionnaire for the Fifth Round, p. 30.

“[160] In that regard, it mentioned the lack of political support on which the SFP has been able to rely, starting with the fact that the budget allocated to the institution is insufficient for it to perform its mandates under the Constitution. As a result it has had to depend in large measure on cooperation funds to finance its activities, which is further complicated by the fact that the programming cycles for these funds do not always coincide with the cycle for carrying out its tasks.”

“[161] In addition, the SFP explained that it only has a staff of 93 to service all of the organs and agencies under its authority: 38% of them are on loan from other institutions, 46% are permanent staff members of the institution, and the remaining 16% are contracted employees, several of whose positions are paid for with international cooperation funds.”

[37] The Committee points out that this shows that to date the SFP has not been provided with the necessary resources to function properly.

[38] The Committee therefore notes that the State under review must pay additional attention to implementation of the foregoing measure and deems it appropriate to restate it given that all government bodies and agencies must have oversight mechanisms and the corresponding governing or administrative authorities to monitor compliance with staff selection standards and that said authorities must have the necessary resources to function properly (see recommendation 1.1.3.2 of section 1.1.3. in Chapter II of this report).

Measure c) which requires further attention under the terms envisaged in the reports from the Third Round:

Develop mechanisms for publication of employment opportunities in the civil service, giving consideration to the use of the mass media for that purpose.

[39] In its response, the State under review presents information and new developments on the preceding measure,^{19/} among which the Committee highlights the following as steps contributing to progress in its implementation:

[40] *“By means of Executive Decree No. 1212, of February 10, 2014, Paraguay adopted the measure to publicize civil service opportunities, establishing the following in its Art. 34: “Public access to the Portal. The PUEP shall be accessible to all citizens, both public servants and non-public servants, who may enter it through the following website www.paraguayconcurso.gov.py by means of an online system for signing in and applying, registering, or obtaining information on public servant recruitment and selection processes. Citizens may use the interactive mode to attach their résumés digitally on the PUEP platform. The online application process shall not initially exclude persons interested in applying who do not use this means, which is why applications may also be recorded by each recipient institution, for subsequent incorporation into the Portal’s application database.”*

[41] In this connection, during the on-site visit, the SFP representatives indicated that not all government bodies and agencies were in SICCA nor could they use the aforementioned platform for recruitment, because of the provisional measures issued by the Supreme Court of Justice (SCJ) owing to the aforementioned ongoing legal actions challenging the constitutionality of the LFP, which have not been settled yet in all cases.

[42] In addition, the Committee notes that, during the on-site visit, the representatives of the CGR noted that their institution had, for the previous three years, been posting on its Internet portal all competitions and notices regarding the selection and recruitment of public servants.

18. Report of Paraguay on the Fourth Round, p. 29, paras. 160 and 161.

19. Response of Paraguay to the questionnaire for the Fifth Round, p. 31.

[43] In view of the foregoing, the Committee takes note of the difficulties expressed by the State under review and of the progress made in implementing this measure, and it deems it appropriate to restate it considering the need to establish mechanisms for publicizing opportunities that cover all government bodies and agencies (see recommendation 1.1.3.3 in section 1.1.3. of Chapter II of this report).

Measure d) which requires further attention under the terms envisaged in the reports from the Third Round:

Taking into account the existing legal initiative and in observance of the principle of due process, implement administrative or judicial challenge mechanisms for the purpose of clarification, amendment, or revocation of substantive acts in the employee selection processes.

[44] In its response, the State under review presents information and new developments in relation to the preceding measure,²⁰ among which the Committee highlights the following as steps contributing to progress in its implementation:

[45] *“Resolution SFP No. 1221, of 2014, which establishes the procedure for holding public competitive examinations, competitive examinations, and merit-based competitions, includes a stage in which complaints may be lodged and queries made about the points assigned, a procedure carried out and concerning which decisions are taken by the Selection Committee, such that it makes decisions concerning the points being called into question. This administrative task is the sole responsibility of the Selection Committee constituted by the institution that convened the competition.”*

[46] *“Any dispute between public servants and the government or between the public concerned and the administration may be settled in the administrative court system, which is the final judicial system for the definitive settlement of these disputes.”*

[47] In this regard, the Committee notes that Article 11 (d) of said Resolution SFP No. 1221/14, establishes as one of the functions of the full members of the Selection Committee: *“Addressing and resolving questions, complaints, or claims during the competition process, within a maximum of 72 hours, presented in writing, and adopting positions, ratifications, or rectifications in this respect, communicating its decisions in writing to the applicants and to the SFP.”*

[48] Similarly, Article 31 of the same Resolution SFP No. 1221/14, which refers to complaints about the competition results, provides: *“Any applicant who considers that some irregularity may have affected the competition’s final result may file a complaint in writing with the Selection Committee within five (5) business days following the publication of the list of those selected if the selection process was merit-based, or of those pre-selected in the case of a shortlist selection process; said Committee shall respond to the complaint in writing within a maximum of 48 hours. The criterion of tacit denial shall apply.”*

[49] Lastly, Article 32 of the same resolution, which has to do with administrative appeals, provides: *Appeals may be brought in administrative courts against any administrative acts of the supreme institutional authority that formalizes appointments, in keeping with Article 86 of Law No. 1.626/2000 ‘On the Civil Service (...).’* This article goes on to say: *“Anyone shortlisted who was not appointed or selected may appeal against the administrative act,”* and establishes as a deadline for filing the appeal eighteen (18) days from the date on which the contested administrative decision was published.

[50] However, the Committee points out that, although Resolution No. 1221/14 provides measures for filing administrative and judicial appeals to clarify, amend, or revoke substantive acts in staff selection processes, this law

20. Response of Paraguay to the questionnaire for the Fifth Round, p. 31.

does not apply to the selection processes of other government bodies and agencies because of the provisional measures issued by the CSJ owing to the aforementioned ongoing appeals challenging the constitutionality of the LFP, referred to in the foregoing paragraphs, which have not been settled yet in all cases.

[51] In this connection, the Committee notes that during the on-site visit, in addressing the systems for administrative or judicial challenges to clarify, amend, or revoke substantive acts in staff selection processes, the CGR representatives stated that: “[t]he Office of the Comptroller General of the Republic does not have a regulatory framework governing a system for administrative appeals.”^{21/}

[52] In light of the foregoing, the Committee takes note of the progress made and of the difficulties identified by the State under review in implementing the preceding measure, and deems it appropriate to restate it since, although the mechanisms for appeal referenced in the preceding measure have been adopted, this is not the case for all government bodies and agencies (see recommendation 1.1.3.4 in section 1.1.3. of Chapter II of this report).

Measure e) which requires further attention under the terms envisaged in the reports from the Third Round:

Implement prior training programs or courses to help those who have entered the civil service to acquaint themselves with their duties, the required standards of integrity, their responsibilities and obligations, and the consequences of non-compliance.

[53] As concerns implementation of this measure, the Committee notes that, during the on-site visit, the State under review presented information and new developments in that regard. However, in examining its implementation, the Committee will consider the conclusions and recommendations made in Chapter II, section III, of this report, since that section will provide an up-to-date, detailed analysis of the implementation of the provision set out in Article 3, paragraph 3, of the Convention, which refers to “[i]nstruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities,” which is closely related to the subject of the previous measure (see recommendations 1.4.1 to 1.4.14. in section 1.4. of Chapter III of this report).

Measure f) which requires further attention under the terms envisaged in the reports from the Third Round:

Consider the need, following the appropriate formalities, for the presentation for approval and enactment of Rules of Procedure for Article 15 of Law No. 1.626/2000.

[54] In its response, the State under review presented the following information on the preceding measure:^{22/}

[55] “Although Resolution No. 1221/2015 is currently in force, work is now under way on the promulgation, by Executive Decree, of regulations for Article 15.”

[56] The Committee therefore recognizes that the State under review must give additional attention to the implementation of the preceding measure and issue Rules of Procedure for Article 15 of the LFP (see recommendation 1.1.3.5 in section 1.1.3. of Chapter II of this report).

Measure g) which requires further attention under the terms envisaged in the reports from the Third Round:

21. http://www.oas.org/juridico/spanish/mesicic5_pry.htm.

22. Response of Paraguay to the questionnaire for the Fifth Round, p. 31.

Adopt, bearing in mind the powers of the Office of the Prosecutor General under Article 88 of Law 1562/2000 (Organic Law of the Office of the Attorney General) regulations governing the systems for procurement, promotion, and tenure of civil servants in that state organ, in accordance with the considerations to be suggested for that purpose by the Civil Service Secretariat and based on the principles of openness, merit, and equality.

[57] In its response, the State under review reported on information and new developments on the preceding measure,^{23/} among which the Committee highlights the following as steps contributing to progress in its implementation:

[58] Publication of the following resolutions:

[59] - Resolution FGE No. 2898/12, “WHICH APPROVES THE IMPLEMENTATION PLAN FOR HUMAN TALENT MANAGEMENT POLICIES OF THE PUBLIC PROSECUTION SERVICE”;

[60] - Resolution FGE No. 2899/12, “WHICH APPROVES THE HUMAN TALENT MANAGEMENT POLICY OF THE PUBLIC PROSECUTION SERVICE”; AND

[61] - Resolution FGE No. 2188/14, “WHICH ESTABLISHES PROCEDURES FOR THE SELECTION, ENTRY, AND PROMOTION OF PUBLIC SERVANTS IN THE PUBLIC PROSECUTION SERVICE.”

[62] In this respect, the Committee notes that although the aforementioned instruments are aimed at the implementation of human talent management policies in the MP and that resolution FGE No. 2899/14 establishes procedures “*for the selection, entry, and promotion of public servants in the MP,*” the latter does not address all aspects of the preceding measure (measure g), such as indeterminate employment, which is one of the characteristics of the civil service, and, although it establishes procedures for announcing competitions, it does not provide additional details on promotions for public servants working in the MP.

[63] In view of the foregoing, the Committee notes the progress made in implementing this measure, and it deems it appropriate to restate it in accordance with any conclusions and recommendations it may make in the section “New Developments” in this chapter, where a more comprehensive analysis will be conducted of this law (see recommendation 1.1.3.9. in section 1.1.3. of Chapter II of this report).

[64] In this regard, during the on-site visit, the representatives of the Association of Prosecutors said that the prosecutorial career system had not yet been implemented and that the group was in the process of submitting a draft Prosecutorial Career Law to Congress that would guarantee the independence of the Public Prosecution Service as well as a merit-based approach to access to the career service.

1.1.2. New developments with respect to provisions of the Convention on the systems of government hiring

[65] The Committee had information at its disposal on the following new developments in the area, on which it will formulate relevant observations and recommendations:

1.1.2.1. Developments with respect to the legal framework

a. Scope

- Statutory and other legal provisions applicable to the Civil Service Secretariat (SFP) and entities under its authority, noteworthy of which are the following:

23. Response of Paraguay to the questionnaire for the Fifth Round, p. 31.

[66] Resolution SFP No. 1221/14, which approves and establishes the General Selection Regulations for Entry and Promotion in the Civil Service, in permanent and temporary posts, through public competitive examinations, competitive examinations, and merit-based competitions, in accordance with Articles 15, 25, 27, and 35 of Law No. 1.626/2000, “On the Civil Service.”

[67] Article 1 thereof provides, further, that this instrument governs the uses and procedures of the Centralized Integrated Administrative Career Service (SICCA), in the selection module through the Single Public Employment Portal (PUEP), “Paraguay Competes.”^{24/}

[68] As concerns its scope of application, Article 2 provides that the Resolution shall apply to all government bodies and agencies (OEE), as established in Article 1 of Law No. 1.626/2000, “On the Civil Service,” which shall cover the entry and promotion of public servants under the administrative career or civil service systems, as well as civilian personnel in the Armed Forces, municipal personnel, and the staff of those companies with majority public shareholdings that conclude agreements with the SFP and adhere to public sector personnel management and development policies. In addition, this regulation shall govern the temporary hiring of individuals, whether technicians, journalists, or professionals, except as provided in Article 27 (a) and (c) of the LFP.^{25/}

[69] Article 6 establishes that the governing principles of the selection procedures for entry, promotion, and hiring in the civil service shall be (a) equality; (b) openness; (c) merit; (d) efficacy, effectiveness, and efficiency; (e) transparency, objectivity, and impartiality; (f) reliability and validity corroborated by the instruments used to assess applicant qualifications; (g) concentration, procedural economy, and administrative oversight; and legality.

[70] Chapter III of the resolution deals with selection and promotion processes, including, inter alia, the types of competitions; the establishment of the Selection Committee, which includes not only full members but also observers of the procedure; as well as the nature and functions of the Selection Committee’s members and observers (Articles 8 to 15).

[71] Chapter IV has to do with the competition procedures, from the preliminary stage; evaluation of the applicants; the checking of credentials; and all stages of the competitions up to selection and the publication of results, including deadlines and procedures for filing challenges (Articles 16 to 32).

[72] Decree 1212/14, which approves the implementation of the Single Public Employment Portal “Paraguay Competes” and the launching of the Centralized Integrated Administrative Career System – SICCA, whose scope and operations are examined in the section on technological developments.

- Statutory and other legal provisions applicable to Prosecutors, noteworthy of which are the following:

[73] Resolution FGE No. 2898/12, “WHICH ADOPTS THE IMPLEMENTATION PLAN FOR HUMAN TALENT MANAGEMENT POLICIES OF THE PUBLIC PROSECUTION SERVICE,”²⁶ Article 2 of which provides that the Human Talent Directorate, the Training Center, the General Directorate for Administration and

24. www.paraguayconcurso.gov.py.

25. Article 27 of the LFP establishes: “Hiring shall be carried out by an administrative act of the supreme authority of the respective body or agency following a merit-based competition for the cases envisaged in Article 25 (b) and (d) and by direct hiring for the cases envisaged in Article 25 (a) and (c).” Article 25 of the LFP establishes that “[t]he following shall be considered temporary needs of exceptional interest for the community: (a) combating epidemic outbreaks; (b) conducting censuses, surveys, or electoral events; (c) responding to public emergency situations; and (d) performing specialized professional services.”

26. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

Finance, and the Planning Directorate will collaborate using all necessary means to effectively carry out the implementation plan.

[74] Resolution FGE No. 2899/12, “WHICH APPROVES THE HUMAN TALENT MANAGEMENT POLICY OF THE PUBLIC PROSECUTION SERVICE,”²⁷ which, among other things, establishes that “[t]o carry out its mission, the Public Prosecution Service shall promote transparent processes to regulate the requirements and procedures for human talent management, ranging from the hiring and indeterminate service to the retirement of the institution’s public servants.”

[75] Resolution FGE No. 2188/14, “WHICH ESTABLISHES PROCEDURES FOR THE SELECTION, ENTRY, AND PROMOTION OF PUBLIC SERVANTS IN THE PUBLIC PROSECUTION SERVICE.”^{28/}

[76] This resolution establishes the requirements for participating in MP competitions as well as the general procedure for the call for applications, which sets internal promotion as an institutional policy and provides that competitions will consider MP staff and contractors first and then, when positions cannot be filled in that manner, public or external competitions will be held to fill available posts in the institution (Articles 4 and 5).

[77] Accordingly, the first step is the call for applications, whether internal or external, followed by authorization of the call for applications and formation of the Selection Committee.

[78] Among the powers and responsibilities of the Selection Committee are recommending to the Prosecutor General everything related to the call for applications; deciding on the length of the procedure; providing general oversight of the competition process; approving the evaluation matrix; qualifying applicants, resolving reconsideration cases and other matters related to the competition process that are not exclusively within the purview of the institution’s supreme authority; verifying the information provided by the applicants in public, private, and civil society organizations, as necessary; deciding on exclusions of applicants when fraud is detected, following the verification of such fraud through the most appropriate means possible; and keeping records of all meetings held and decisions adopted.

[79] The third step is the formulation of evaluation factors, which are to be established in each case to support the weight given to the factors that have to be taken into account in keeping with the job profile.

[80] The fourth step according to the resolution is determining the time period for announcing the competition (10 days) as well as where and how it should be published (circulars and Internet portal) and the information the announcement should contain.

[81] The following steps correspond to procedures for document receipt and evaluation, publication of the list of applicants eligible to take part, other procedures up to the selection of candidates, and the period of validity of the list of candidates from the time the selection processes close.

b. Observations

- In relation to the new legal developments applicable to the Civil Service Secretariat (SFP) and the entities under its authority:

[82] The Committee recognizes that the new legal developments in this area constitute positive steps toward establishing a human resource system for people working for bodies and agencies of the Paraguayan State and

27. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

28. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

toward regulating the merit system for entry into the civil service. Nonetheless, the Committee deems it appropriate to make a few comments on those developments:

[83] First, the Committee notes that Article 30 of the aforementioned Resolution No. 1221/14, on the permanence of posts for which competitions are held, establishes that “[i]n accordance with the terms and conditions for posts subject to competition, the minimum period of permanence in the permanent posts shall be two (2) years of continuous service, after which the public servant may be promoted within the same OEE to other posts, in accordance with the procedure established in these regulations. In the case of contractors, the contract term shall establish the length of service, with the possibility of contract renewal the following fiscal year, subject to a performance evaluation of those who have competed.

[84] In this connection, the Committee notes that this norm, although it regulates entry into the civil service, on the basis of the principles of openness, equity, and efficiency, does not regulate or address the career service and, as observed above, because of the situation resulting from the provisional measures issued by the CSJ owing to the appeals on grounds of unconstitutionality, it does not apply to all government bodies and agencies or to all public servants.

[85] In fact, during the on-site visit, the SFP representatives explained that any reference to “career” generally has to do with the seniority of public servants but not necessarily to their permanence and that the career service did not yet exist in the public administration.

[86] Thus, it may be seen that Article 30 of Resolution No. 1221/14 establishes two years as the minimum period of service in permanent posts subject to competition, which does not constitute continuity or stability for public servants, which is one of the main characteristics of a civil service career.

[87] It bears recalling that during the Fourth Round, when the operations of the oversight bodies were reviewed, including the human resource system of the bodies under the authority of the SFP, it was concluded that the civil service career system had not yet been implemented and it was specifically recommended that Paraguay “[i]ntroduce regulations for and implement the civil service career system in the SFP and the institutions under its authority, ensuring that entry into this career service is according to the principle of merit, while taking the competence factor into account.”^{29/}

[88] In this connection, while the Committee recognizes the efforts made by the State under review to regulate entry into the civil service, it reiterates recommendation 4.4.1 of the Fourth Round, which is still in effect, and urges the State under review to implement the civil service career system in the SFP and the institutions under its authority.

[89] Secondly, the Committee notes that Resolution No. 1221/14, in addition to establishing procedures for the selection of permanent staff and for civil service promotions, includes a merit-based selection procedure for contract staff and an abbreviated one for auxiliary service personnel. However, pursuant to Articles 4, 5, and 6 of Law No. 1.626/2000, “On the Civil Service” (LFP),^{30/} these workers are not considered public servants and are governed by the Civil Code and the Labor Code, respectively.

29. See Report of Paraguay on the Fourth Round, para. 156, and recommendation 4.4.1.

30. Article 4 of Law No. 1.626/2000, “On the Civil Service” (LFP): *A public servant is a person appointed by an administrative act to occupy on a permanent basis a post included or envisaged in the General Budget of the Nation, where he or she performs duties inherent to the role of the government body or agency for which he or she works. A public servant's work is remunerated and is carried out in a relationship of dependency with the State.*

Article 5: *A contract employee is a person who, by virtue of a contract and for a set period of time, performs work or provides services to the State. His or her legal relations shall be governed by the Civil Code, the respective*

[90] Indeed, pursuant to the articles of the aforementioned LFP, a public servant is deemed exclusively to be a worker appointed *by an administrative act to occupy on a permanent basis a post included or envisaged in the General Budget of the Nation, where he or she perform duties inherent to the role of the government body or agency for which he or she works.* The same article adds that *“A public servant’s work is remunerated and is carried out in a relationship of dependency with the State.”*

[91] This means that contract staff and auxiliary service personnel are not considered public servants, even though they are working for the State, which could indicate the existence of parallel employee rolls in the public sector, in which persons performing the same tasks as public servants do not have the same responsibilities, obligations, or rights as those deemed to be public servants. This was apparent in the Fourth Round of Review, in which it was recommended that the State adopt regulatory measures to ensure that there is a disciplinary procedure for contract employees, since they are not subject to the same administrative procedures as permanent staff, although they also work for the State.^{31/}

[92] The Committee wishes to point out that the definitions of public servant or public function established in Article I of the Convention, refer to *“any official or employee of the State or its agencies,”* without any distinction as to the type of appointment or its hierarchy.^{32/}

[93] In this respect, during the on-site visit, the SFP representatives pointed out that there was truly a need to update the definition of public servant in the LFP given that the one currently in effect was not consistent with the principles established in the definition in Article I of the Convention.^{33/}

[94] In view of the foregoing, the Committee considers it appropriate for the State under review to update the definition of public servant in its legislation in order to bring it into line with the definitions of public servant and public function embodied in the Convention. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.6. in section 1.1.3. of Chapter II of this report).

[95] In addition, as concerns the CGR, the Committee notes that, during the on-site visit, the representatives of this oversight body indicated that:

contract, and the other norms regulating the matter. Any issues in dispute between the parties shall be subject to the jurisdiction of the civil courts.

Article 6: Auxiliary service personnel (drivers, elevator operators, cleaners, messengers, and other similar persons) are individuals appointed to such duties by the supreme authority of the government body or agency in which they work. Appointments shall be made through a simplified selection process that will be established in the internal regulations of the respective body or agency. Auxiliary service personnel shall work in a relationship of dependency with the State; their work shall be remunerated, and their labor relationship shall be governed by the Labor Code.

31. Report of Paraguay on the Fourth Round, recommendation 4.4.5.

32. Article I of the Convention: *For the purposes of this Convention:*

“Public function” means any temporary or permanent, paid or honorary activity, performed by a natural person in the name of the State or in the service of the State or its institutions, at any level of its hierarchy.

“Public official,” “government official.” or “public servant” means any official or employee of the State or its agencies, including those who have been selected, appointed, or elected to perform activities or functions in the name of the State or in the service of the State, at any level of its hierarchy.

“Property” means assets of any kind, whether movable or immovable, tangible or intangible, and any document or legal instrument demonstrating, purporting to demonstrate, or relating to ownership or other rights pertaining to such assets.

33. In this respect, it should be mentioned that Law No. 2523/04 “which prevents, criminalizes, and punishes illicit enrichment in the civil service and influence peddling” does not draw this distinction, and the LFP could do likewise.

[96] *“Although Law No. 1.626/2000, “On the Civil Service,” does not apply to the Office of the Comptroller General of the Republic, inasmuch as it is an autonomous constitutional body, that situation does not leave it without a general norm regulating the process for selecting and hiring personnel. In fact, Resolution CGR No. 424/2008 was issued “APPROVING THE STANDARD INTERNAL CONTROL MODEL FOR THE PUBLIC AGENCIES OF PARAGUAY (MECIP) AND PROVIDING FOR ITS ADOPTION IN THE OFFICE OF THE COMPTROLLER GENERAL OF THE REPUBLIC,” whose implementation manual approved under the Human Talent Development standard expressly establishes the following in relation to selection: ‘it allows the selection of the most qualified public servants for purposes required by the agency, on the basis of the profiles established for each post and in keeping with the principles of merit, equality, openness, transparency, impartiality, reliability, efficacy, and efficiency. It includes activities relating to the call for applications, recruitment, the administration of examinations or other selection instruments, the constitution of lists of eligible candidates, and the probation period.’ ”*

[97] *“This may be done through open competitions or competitions for promotions, depending on the type of job to be filed and the required profiles.”^{34/}*

[98] In this regard, the Committee notes that although the MECIP establishes the general foundations for the development of human talent, it does not regulate hiring procedures and that, during the on-site visit, the CGR representatives said that they had been using the MECIPA as a best practice and had even held competitions, but that the process was still not regulated.

[99] Accordingly, the Committee observes that, during the on-site visit, the CGR representatives identified the following difficulties, among others:^{35/}

[100] *“As for the normative framework, it should be specified that the Office of the Comptroller General has urged the legislative branch on several occasions, thus far to no avail, to update its Organic Charter, adopted by Law No. 276/94. The Organic Charter in question does not now specifically provide for a system for the selection and hiring of public servants in the institution, among other organizational matters. That situation has meant in turn that the Internal Staff Rules have not been updated, since any attempt to update them might end up conflicting with the Organic Charter. The latter instrument provides for free and discretionary appointment and removal by the Comptroller General, which has resulted in some defects and visible consequences in the process.*

[101] One of the examples of the foregoing is Article 21 of the CGR Internal Staff Rules (*Reglamento Interno de Personal de la CGR – RIPCGR*), which provide that if a vacant position results from a public servant’s resignation, death, or retirement the staff member’s spouse or child may be hired by the institution.

[102] In this connection, the Committee would like to recall that in the Fourth Round, which reviewed the operations of the oversight bodies, including the CGR, the provisions of both the Organic Law of the CGR (LOCGR) and the CGR Internal Staff Rules (RIPCGR) were examined, and recommendations were made to ensure not only that CGR staff recruitment was done through merit-based competitions but also that said competitions were mandatory, as well as to regulate and implement the career service system (administrative career system) in the institution.^{36/}

[103] In light of the above, the Committee takes note of the difficulties expressed by the State under review and, without prejudice to the fact that the recommendations made in the Fourth Round that are still in effect, deems it appropriate for the State under review to consider taking the necessary regulatory and legislative measures to update the LOCGR and the RIPCGR, in order to ensure that the recommendations made during the Fourth Round of Review are implemented and that the institution has a system for selecting and hiring public servants as well as a career

34. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

35. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

36. See paragraphs 98 and 99 and recommendations 2.4.1 and 2.4.2 of the Report of Paraguay on the Fourth Round.

service system, based on the principles of merit, openness, and equity embodied in the Convention. The Committee will formulate a recommendation to this effect (see recommendation 1.1.4.7 in section 1.1.3. of Chapter II of this report).

[104] Lastly, the Committee points out that the only norm published on the CGR Portal is the LOCGR; neither the RIPCGR nor any other institutional norm is published. Therefore, the Committee considers that the State under review should publish the law governing it on its Internet Portal so that said law may be publicly accessible. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.8 in section 1.1.3. of Chapter II of this report.).

- New legal developments in the Public Prosecution Service:

[105] The Committee recognizes that the new legal developments in this area constitute positive steps forward toward regulating the merit system for entry into the Public Ministry. However, the Committee deems it appropriate to make a few observations on said developments:

[106] First, with respect to Resolution FGE No. 2188/14, “*which establishes procedures for the selection, entry, and promotion of public servants in the Public Prosecution Service,*” the Committee notes that, during the on-site visit, the MP representatives said that this new legal framework had been very useful in their efforts to ensure that entry into the institution’s service took place through a procedure based on the principles of merit, openness, equity, and efficiency.

[107] Given that there was a shortage of institutional capacity to hold all the competitions needed, the institution began by holding internal competitions for prosecution rapporteurs in 2012. In this regard, they indicated that as of the current date 347 persons had been hired through both internal and external competitions, which they deemed to be a positive change.

[108] This notwithstanding, the Committee observes, among other things, that the new law does not provide for the indeterminate service of public servants working for the institution, which was the subject of recommendation 1.1 (g) of the Second Round and which is a fundamental characteristic of the career service.

[109] In this respect, during the Fourth Round of Review, in which the oversight bodies, including the MP, were examined, the Committee found that neither the prosecutorial nor the administrative career service system had been created, and recommendations to that effect were made in the corresponding report.^{37/} The Committee therefore reiterates the recommendations made in this regard during the Fourth Round of Review and urges the State under review to introduce regulations regarding continuity in the Public Prosecution Service. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.9 (i) in section 1.1.3. of Chapter II of this report).

[110] Second, the Committee points out that while this new norm establishes a Selection Committee, said committee is specific to each case, and although the norm indicates that benchmarks will be available from the Human Management Directorate and the Training Center, the rest of the members will be determined according to the job profiles and the agencies concerned, but it does not provide guidelines for determining how decisions will be made about the people chosen to serve on the selection committees, how many members will make them up, or whether any oversight by labor unions, such as the Association of Prosecutors, or by civil society is being considered. In view of the foregoing, the Committee deems it appropriate for the State under review to consider including in its norms provisions to clearly establish how the selection committees will be constituted, and it will formulate a recommendation to this effect (see recommendation 1.1.3.9 (ii) in section 1.1.3. of Chapter II of this report).

37. Report of Paraguay on the Fourth Round, recommendations 1.4.2 to 1.4.5.

[111] Third, although under the established procedures the Selection Committee approves the evaluation matrix, there do not seem to be guidelines for preparing those matrices or for their approval along with the job profiles. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.9. (iii) in section 1.1.3. of Chapter II of this report).

[112] Along the same lines, the Committee also notes that the resolution in question does not establish the duration of the selection procedure, leaving it to the judgment of the respective Selection Committee. Likewise, the Committee observes that the only time period set for this procedure is for the publication of the call for applications, with no time frames for any other stages of the process. On this point, the Committee considers it advisable for the State under review to establish time periods for all stages of the process in order to guarantee its equity and efficiency. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.9 (iv) and (v) in section 1.1.3. of Chapter II of this report).

[113] Fourth, the Committee notes that while the norm in question establishes as one of the powers and responsibilities of the Selection Committee “*resolving reconsideration cases and other matters related to the competition process that are not exclusively within the purview of the institution’s supreme authority,*” it does not expressly say how the Selection Committee or the supreme authority will resolve reconsideration cases or challenges that may seek to clarify, amend, or revoke substantive acts in staff selection processes. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.9 (vi) in section 1.1.3. of Chapter II of this report).

[114] Finally, the Committee points out that the law governing the MP is not available on its Internet Portal. In this respect, the Committee considers it appropriate for the State under review to publish the norm governing it on its Internet Portal, so that it may be publicly accessible. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.10 in section 1.1.3. of Chapter II of this report).

1.1.2.2. New developments with respect to technology

- In relation to new developments in the Civil Service Secretariat (SFP) and the entities under its authority:

[115] Decree 1212/14, which approved implementation of the Single Public Employment Portal (PUEP), “Paraguay Competes,” and the launching of the Centralized Integrated Administrative Career Service – SICCA, whose scope and operations are analyzed below.

[116] Article 2 thereof creates the Single Public Employment Portal (PUEP), known as “Paraguay Competes,”^{38/} which constitutes the digital platform for online management of staff selection processes *for new recruitment into the Public Administration through Public Competitive Examinations as well as for promotion in public employment through Competitive Examinations and new hiring through Merit-Based Competitions, pursuant to the norm issued by the Civil Service Secretariat, in keeping with Articles 15, 25,27, and 35 of Law No. 1.626/2000, “On the Civil Service.”*

[117] The same Article 2 establishes that the PUEP will be administered by the SFP and will be linked to the National Human Resource System (SINARH) of the Ministry of Finance (MH), in accordance with the responsibilities of each institution, guaranteeing the necessary interagency coordination between the two systems.

[118] The Portal is accessible to all citizens, both public servants and non-public servants, on the website www.paraguayconcurso.gov.py, through an online system for signing in and applying, registering, or obtaining information on public servant recruitment and selection processes; it does not initially exclude persons interested in

38. <https://www.paraguayconcurso.gov.py>.

applying who do not use this means, who will be able to register with the recipient institution, for subsequent incorporation into the database (Article 3).

[119] Management of the process through the Portal covers all selection procedures, including planning; approval of terms and conditions; the public call for applications; submission of applications; evaluation of applicants; and publication and notification of the lists of those who pass, those who are preselected, and the person chosen; as well as the appointment or hiring (Article 4).

[120] The SICCA administration reports to the SFP, in its capacity as Central Regulatory Agency for the Civil Service, and to the Personnel Management and Development Units (UGDP) of the Human Resource Directorates of the government bodies and agencies, and shall administer management procedures through the SICCA, in their capacity as decentralized operational units, in keeping with the technical and regulatory criteria for deadlines and requirements for compliance by the Civil Service Secretariat (Article 6).

a. Observations

- In relation to new technological developments applicable to the Civil Service Secretariat (SFP) and the entities under its authority:

[121] The Committee recognizes that the new technological developments in this area constitute positive steps toward the efficient implementation of a human resource system for persons working for the bodies and agencies of the Paraguayan State for entry into the civil service. Nonetheless, the Committee deems it appropriate to make a few observations on these developments:

[122] The SICCA system, along with the Single Public Employment Portal (PUEP), “Paraguay Competes,” has been operational since 2014. Consequently, the number of competitions and of institutions using it has increased gradually. In addition, the SICCA is designed to streamline and improve the transparency not only of the processes for selecting new public servants, but also of subsystems for planning staffing needs and for labor mobility and advancement, performance evaluation, training, digital document management, compensation, legal processes, and terminations.^{39/}

[123] Furthermore, during the on-site visit, the representatives of the civil society organization “*Centro de Estudios Ambientales – CEAMSO*” [Center for Environmental Studies] pointed out that the implementation of the SICCA had been very positive and that the number of competitions had increased because of the regulation and the requirement that competitions be held for entry and internal promotions.

[124] However, both the State under review in its response^{40/} and the SFP representatives during the on-site visit said that “*there is a shortage of necessary technological equipment to support the SICCA system in the long term,*” as well as “*insufficient human capital trained to handle the processes that are part of the OEE competition module*” and the “*empowerment of public institutions and of the citizenry in selection processes.*”

[125] In this connection, the Committee considers that the State under review could ensure the sustainability of the SICCA, and contribute to empowerment of the public institutions and the citizenry in selection processes, by strengthening the SFP and providing it with the necessary human, technological, and financial resources for those purposes. The Committee will formulate a recommendation to this effect (see recommendation 1.1.11 in Chapter II of this report).

39. http://www.oas.org/juridico/spanish/mesicic5_pry.htm.

40. Response of Paraguay to the Questionnaire for the Fifth Round, p. 31.

[126] The Committee also notes that, during the on-site visit, the SFP representatives pointed out that, because of the provisional measures issued as a result of the aforementioned appeals against the LFP on grounds of unconstitutionality, not all government bodies and agencies were able to use the SICCA.

[127] In this regard, it should be noted that, during the on-site visit, the CGR representatives reported that the first competitions had been held in 2012 and 2013, with cooperation from the SFP, but that in 2014 the SFP had said the following: *“The OEE (Office of the Comptroller General of the Republic) has brought legal action against the aforementioned laws; the SFP is not legally bound to provide technical assistance for the application and implementation of public policies related to entry, promotion, performance evaluation, salary policy, labor mobility, the disciplinary system, training, and controls on double dipping; in other words, this Executive Secretariat will only provide support to those institutions that have assumed the challenge of strengthening human management and development, applying the principles established in Law No. 1.626/2000, “On the Civil Service,” and its corresponding regulations.”*

[128] *Notwithstanding the response from the SFP, the Office of the Comptroller General decides to continue implementing the same selection mechanisms adopted by the SFP, but without certification and subsequent publication on the Paraguay Competes portal, and documenting the operational procedure of the Personnel Selection Process under the Quality Management System, which is certified under the ISO 9001 Standard.*

[129] *Furthermore, pursuant to the general norm of the Standard Internal Control Model for the public agencies of Paraguay (MECIP), the Office of the Comptroller General is under the jurisdiction of the Institutional Audit Office, the unit responsible for monitoring compliance with personnel selection regulations.*

[130] In addition, the CGR said that one of its difficulties was that the *“Office of the Comptroller General does not currently use the SICCA to apply the Personnel Selection Procedure for filling vacant posts, owing to the adverse opinion handed down by the Civil Service Secretariat. It has therefore been left without any technical cooperation at the national level in this respect. However, it bears mentioning that cooperation agreements were recently signed between the Office of the Comptroller General of the Republic and the Civil Service Secretariat, with a view to promoting institutional development projects and programs.”*⁴¹

[131] On this point, the Committee considers it would be useful for the State under review, subject to the recommendations made in previous rounds on settling the matter of the provisional measures issued by the Supreme Court of Justice (CSJ) as a result of the appeals against Law 1.626/2000, “On the Civil Service,” on grounds of unconstitutionality, to take measures to promote and strengthen mechanisms for interagency coordination, where appropriate, so that the State may receive technical assistance from the SFP for hiring public servants and developing human talent, to the extent possible bearing in mind the limitations imposed by the aforementioned provisional measures. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.12. in section 1.1.3. of Chapter II of this report).

[132] The Committee also notes that, as concerns the National Human Resource System (SINARH) of the Ministry of Finance,^{42/} which is referred to in Article 2 of Decree 1212/14 and to which the SICCA is digitally linked, during the on-site visit the SFP representatives said that this connection had been very useful in preventing cases of irregular hiring.

⁴¹ See Resolution 508/15 that approves, makes legal and registers the collective bargaining agreement signed between the “Comptroller General’s Office and the Unions: Union of Graduate and College Public Servants of the Comptroller General’s Office – SINGRUCOG and Union of Public Servants and Graduates of the Comptroller General’s Office – SINFUCOG”

42. <http://nomina.paraguay.gov.py/nomina/>.

[133] In fact, on that occasion they indicated as one of the endemic difficulties that the government bodies and agencies often hire personnel *ad honorem*, in the absence of any process, and then create specific positions for said individuals who are already working, hiring them without competitions, predating their contracts, and paying them retroactively.

[134] It has been possible to prevent or sanction this in the institutions linked to the SINARH, which, as the government institution payroll system, has the capacity to block payments in connection with predated contracts not offered in accordance with the procedures established and approved by the SFP.^{43/} However, not all institutions are part of the system and therefore nothing can be done to avoid or correct the situation since these entities can make predated payments directly without going through the system.

[135] In view of the foregoing, the SFP representatives said it would be important for all government bodies and agencies to make their payrolls part of the SINARH, in order to avoid irregularities in the hiring of public servants. The Committee believes it appropriate for the State under review to consider including in the SINARH the payrolls of all the organs and entities under the jurisdiction of the SFP, and it will formulate a recommendation to this effect (see recommendation 1.1.13 in section 1.1.3. of Chapter II of this report).

[136] Lastly, the SFP pointed out that what it needed, inter alia, was technical cooperation for the gradual development and refinement of the SICCA and for the exchange of successful experiences at the regional level. In this regard, the Committee takes note of the needs expressed by the SPF for the State under review to provide it with necessary support, and it invites the States Parties, as well as other cooperation organizations, to help the institution in these areas. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.14 in section 1.1.3. of Chapter II of this report).

1.1.2.3. Results

- In relation to the results presented by the Civil Service Secretariat (SFP) and the entities under its authority:

[137] During the on-site visit, the Civil Service Secretariat presented results on the recruitment processes in the government bodies and agencies under its authority, the most noteworthy among which are the following:

	2013-2014	2014-2015	TOTAL
Competitions held	351	1,444	1,795
Positions competed for	12,736	12,261	24,997
Institutions holding the competitions	81*	96*	

*Account is taken of sub-departments, sub-UAFs.

[138] On this point, the Committee notes that the statistical data presented in the summary table above provides information for the past two years exclusively, which is not sufficient for an overall assessment.

[139] This notwithstanding, the Committee notes that the information for 2013-2014 is for a period prior to the implementation of the SICCA system, whereas that for 2014 and 2015 (up to the time of the visit) shows that the number of competitions held has increased considerably and the number of positions for which competitions were held up to the time of the visit was expected to exceed the previous year's. By the same token, the number of institutions holding competitions through the system also rose, although it is impossible to know which institutions

43. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

were involved and whether there is a difference between those that held competitions earlier and those that joined the system after adoption of the SICCA.

[140] The LFP also provided information on the number of competitions audited and their results:

2014

Institution	Recommendation	OEE Action
1. The State-owned oil company <i>Petróleos Paraguayos</i> (PETROPAR)	Errors detected; it is recommended that the process be reinitiated.	Process reinitiated
2. National Postal Service of Paraguay (DINACOPA)	Errors detected; it is recommended that the process be reinitiated.	Process reinitiated
3. National Vegetable and Seed Quality and Sanitation Service (SENAVE)	Errors detected; it is recommended that the process be reinitiated.	Process reinitiated
4. National Secretariat for Housing and Habitat (SENAVITAT)	Errors detected; it is recommended that the process be reinitiated.	Process reinitiated

2015

Institution	Recommendation	OEE Action
1. National Council for Higher Education (CONES)	Errors detected; it is recommended that the process be reinitiated.	Process reinitiated
2. National Institute of Rural and Land Development (INDERT)	Pending	In process
3. Ministry of Industry and Trade (MIC)	Pending	In process
4. Ministry of Justice	Pending	In process
5. National Vegetable and Seed Quality and Sanitation Service (SENAVE)	Pending	In process

[141] With respect to the above tables, corresponding to 2014 and 2015, the Committee observes that they contain data for only the past two years and, although they show that the competitions are being audited, a comprehensive assessment of the matter is impossible with such limited information.

[142] Consequently, the Committee considers it appropriate for the State under review to consider keeping more detailed statistical data on results, including as a minimum, the identity and number of institutions holding competitions in the framework of the procedures established by the SFP, broken down by year, so that it is possible to see the number and percentage of posts filled by competition compared to those filled by direct hiring; the number of public servants hired under each of the modalities of Article 8 of Resolution No. 1221/14, namely: (a) public competitive examinations (permanent posts); (b) competitive examinations (promotions); (c) merit-based competitions (temporary contracts); and (d) simplified rules for the selection of auxiliary service personnel; as well as the number of competitions that were challenged, the number that were audited, and the results of those challenges and audits, with a view to identifying challenges and recommending any necessary corrective measures. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.15 in section 1.1.3. of Chapter II of this report).

[143] This notwithstanding, the Committee notes that, during the on-site visit, the SFP representatives pointed out that implementation of the competition system was recent and that the government bodies and agencies had been hiring personnel without competitions for many years. As a result, some staff who had occupied positions for many years had never gone through competitions. To remedy the situation, various government bodies and agencies were establishing a process to reduce job insecurity (*desprecarización*) so as to regularize the situation of these public servants. However, the SFP representatives expressed their concern that, although some institutions were holding

competitions to remedy the situation, in many other cases the personnel were simply being appointed to permanent posts without competitions. They were likewise concerned that this could lead to hiring without holding any competitions and to waiting for sufficient time to elapse to reduce job insecurity and obviate merit-based procedures.

[144] Accordingly, the Committee deems it appropriate for the State under review to consider adopting any necessary measures to ensure that these processes to reduce job insecurity are not used as a means to sidestep merit-based selection processes. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.16 in section 1.1.3. of Chapter II of this report).

- In relation to the results presented by the Office of the Comptroller General of the Republic (CGR):

[145] In relation to the results of efforts of the CGR to make the staff selection process more transparent and despite the challenges and limitations referred to the previous paragraphs, during the on-site visit, the representatives of the institutions provided statistical data, noteworthy among which is the following:^{44/}

Number of public servants hired to date through merit-based competitions	Number of public servants not hired to date through merit-based competitions
69 public servants, equivalent to 8% of the current population	777 public servants, equivalent to 92% of the current population
Number of public servants that have become part of the career service	Number of public servants that have accepted temporary appointments
846 public servants	64 public servants

[146] It is evident from the statistical data in the above chart that public servants have been joining the CGR through merit-based competitions. However, the statistical table does not indicate the period or periods in which those competitions were held, nor does it provide any other information except that the public servants selected through merit-based competitions constitute 8% of the total number of public servants working for the institution.

[147] In light of the above, the Committee considers it appropriate for the State under review to consider keeping more detailed statistical data on the results of the processes for selecting public servants working for the CGR, broken down by year, which contain as a minimum the number and percentage of public servants who joined the service through merit-based competitions, those who joined without competitions, those appointed to permanent posts, those appointed to temporary posts, the number of competitions that were challenged, the number that were audited, and the results of those challenges and audits, with a view to identifying challenges and recommending any necessary corrective measures. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.17 in section 1.1.3. of Chapter II of this report).

- In relation to the results presented by the Public Prosecution Service (MP):

[148] As regards the results of the efforts of the MP to make the staff selection process more transparent, despite the challenges and limitations referred to in the previous paragraphs, during the on-site visit the representatives of the institution pointed out that, from 2012 to the date of the visit, 14 competitions had been held, which resulted in 347 hires through internal and external competitions, and that the first competitions preceded the publication of Resolution

44. http://www.oas.org/juridico/spanish/mesicic5_pry.htm

2188/2014 “*which establishes procedures for the selection, entry, and promotion of public servants in the Public Prosecution Service.*”

[149] On this point, and considering the recent publication of Resolution 2188/2014, in June 2014, the Committee considers it would be very useful for the State to consider keeping statistical data on the processes for selecting public servants in the MP, broken down by year, which contain, as a minimum, the number and percentage of public servants who joined the service through merit-based competitions, the number who joined without competitions, the number who were appointed to permanent posts, the number appointed to temporary posts, the number who were upgraded or promoted, the number of competitions challenged, the results of those challenges, and the duration of each of the stages of the process, with a view to identifying challenges and recommending any necessary corrective measures. The Committee will formulate a recommendation to this effect (see recommendation 1.1.3.18 in section 1.1.3. of Chapter II of this report).

1.1.3. Recommendations

[150] In light of sections 1.1.1 and 1.1.2, the Committee suggests that the State under review consider the following recommendations:

- 1.1.3.1. Consider taking the existing legal initiative into account, adopt a legal instrument, applicable to all public servants, to govern civil service hiring systems, based on principles of merit and equality, ensuring the legitimacy and transparency of public competitions, without prejudice to the possibility, in keeping with the rule of the separation of powers and the existence of autonomous entities and bodies, of considering the creation of other systems for certain public jobs whose nature and responsibilities require more specific provisions, such those provided under Article 1 of the Law against Nepotism in the Civil Service (Law No. 2777/2005). (See paragraphs 15 to 28 of section 1.1.1 of Chapter II of this report).
- 1.1.3.2. Consider implementing provisions to ensure that all government bodies and agencies have oversight mechanisms as well as the corresponding governing or administrative authorities to monitor compliance with staff selection standards, ensuring likewise that these authorities have the necessary human and budgetary resources to properly perform their functions, within available resources. (See paragraphs 29 to 38 of section 1.1.1 of Chapter II of this report).
- 1.1.3.3. Develop mechanisms for publicizing employment opportunities in the civil service among all government bodies and agencies, taking the use of the mass media and modern communication tools into account. (See paragraphs 39 to 43 of section 1.1.1 of Chapter II of this report).
- 1.1.3.4. Implement, on the basis of the principle of due process, systems for administrative or judicial challenges to clarify, amend, or revoke substantive acts in staff selection in all government bodies and agencies. (See paragraphs 44 to 52 of section 1.1.1 of Chapter II of this report).
- 1.1.3.5. Consider taking the necessary statutory measures to issue the Rules of Procedure for Article 15 of the Civil Service Law (Law No 1.626/2000). (See paragraphs 53 to 56 of section 1.1.1 of Chapter II of this report).
- 1.1.3.6. Consider taking statutory measures to update the definition of civil servant in its legislation, so that it is consistent with the definitions of public servant and public function embodied in the Convention. (See paragraphs 89 to 94, as well as 237 to 241 of section 1.1.2 of Chapter II of this report).

- 1.1.3.7. Consider taking the necessary regulatory and legislative measures to update the LOCGR and the RIPCGR in order to ensure that the recommendations formulated during the Fourth Round of Review are implemented and that the institution has a system for selecting and hiring public servants, as well as a career service based on the principles of merit, openness, and equity embodied in the Convention. (See paragraphs 95 to 103 of section 1.1.1 of Chapter II of this report).
- 1.1.3.8. Post the norms governing the CGR on its Internet Portal so that they may be publicly accessible. (See paragraph 401 of section 1.1.1 of Chapter II of this report).
- 1.1.3.9. Consider taking any necessary measures to adjust the procedures for selection, entry, and promotion of personnel in the Public Prosecution Service, so that the following factors are taken into account: (See paragraphs 62 to 64 of section 1.1.1 of Chapter II of this report).
 - i. Regulation of indeterminate service in the MP. (See paragraphs 105 to 109 of section 1.1.2 of Chapter II of this report).
 - ii. Establishment of guidelines on the constitution of the Selection Committees of the MP that contain, as a minimum, criteria concerning the number of members who will serve on these committees, by whom and how they will be appointed, and whether their members will include observers from labor unions or civil society organizations. (See paragraph 110 of section 1.1.2 of Chapter II of this report).
 - iii. Establishment of criteria and guidelines for drawing up evaluation matrices and their approval with the job profiles of the MP. (See paragraph 111 of section 1.1.2 of Chapter II of this report).
 - iv. Determination of time periods for MP personnel selection processes, such that these are not left to the discretion of the Selection Committees. (See paragraph 112 of section 1.1.2 of Chapter II of this report).
 - v. Establishment of time frames for all stages of the selection process, such as for document receipt and evaluation, examinations and interviews, recommendation to the competent authority, appointment of the most suitable candidate, and publication of results. (See paragraph 112 of section 1.1.2 of Chapter II of this report).
 - vi. Introduction of regulations on how the Selection Committee or the supreme authority will resolve reconsideration cases or challenges that seek to clarify, amend, or revoke substantive acts in staff selection processes. (See paragraph 113 of section 1.1.2 of Chapter II of this report).
- 1.1.3.10. Post the norms governing the MP on its Internet Portal so that they may be publicly accessible. (See paragraph 114 of section 1.1.2 of Chapter II of this report).
- 1.1.3.11. Provide the SFP with the necessary human, technological, and financial resources, subject to available resources, in order to ensure the sustainability of the Centralized Integrated Administrative Career Service (SICCA) and contribute to empowerment of public institutions and the citizenry in public servant selection processes. (See paragraphs 124 and 125 of section 1.1.2 of Chapter II of this report).

- 1.1.3.12. Promote and strengthen mechanisms for interagency coordination, where appropriate, so that the government bodies and agencies may receive technical assistance from the SFP for hiring public servants and developing human talent, to the extent possible bearing in mind the limitations imposed by the aforementioned provisional measures issued by the Supreme Court of Justice (CSJ) as a result of the actions against Law No. 1.626/2000, "On the Civil Service," on grounds of unconstitutionality, which have not been settled yet. (See paragraphs 126 to 131 of section 1.1.2 of Chapter II of this report).
- 1.1.3.13. Consider incorporating the payrolls of all government bodies and agencies under the authority of the SFP, into the National Human Resource System (SINARH) of the Ministry of Finance. (See paragraphs 132 to 135 of section 1.1.2 of Chapter II of this report).
- 1.1.3.14. Promote necessary measures with other States and cooperation organizations to provide the SFP with the technical assistance needed for the gradual development and refinement of the SICCA and for the exchange of successful experiences at the regional level. (See paragraph 136 of section 1.1.2 of Chapter II of this report).
- 1.1.3.15. Keep detailed statistical data on results with regard to the identity and number of institutions holding competitions in the framework of the procedures established by the SFP, broken down by year, including as a minimum the number and percentage of posts filled by competition compared to those filled by direct hiring; the number of public servants hired under each of the modalities of Article 8 of Resolution No. 1221/14, namely: (a) public competitive examinations (permanent posts); (b) competitive examinations (promotions); (c) merit-based competitions (temporary contracts); and (d) simplified rules for the selection of auxiliary service personnel; as well as the number of competitions that were challenged, the number that were audited, and the results of those challenges and audits, with a view to identifying challenges and recommending any necessary corrective measures. (See paragraphs 137 to 142 of section 1.1.2 of Chapter II of this report).
- 1.1.3.16. Adopt any necessary measures to ensure that the processes to reduce the job insecurity (*desprecarización*) of public servants hired without going through competitions are not used as a means of sidestepping merit-based selection procedures. (See paragraphs 143 to 144 of section 1.1.2 of Chapter II of this report).
- 1.1.3.17. Keep more detailed statistical data on the results of the processes for selecting public servants working for the CGR, broken down by year, which contain as a minimum the number and percentage of public servants who joined the service through merit-based competitions, the number who joined without competitions, the number appointed to permanent posts, the number appointed to temporary posts, the number of competitions that were challenged, the number that were audited, and the results of those challenges and audits, with a view to identifying challenges and recommending any necessary corrective measures. (See paragraphs 145 to 147 of section 1.1.2 of Chapter II of this report).
- 1.1.3.18. Keep statistical data on the results of the processes for selecting public servants in the MP, broken down by year, which contain as a minimum the number and percentage of public servants who joined the service through merit-based competitions, the number who joined without competitions, the number appointed to permanent posts, the number appointed to temporary posts, the number who were upgraded or promoted, the number of competitions challenged, the results of those challenges, and the duration of each of the stages of the process. (See paragraphs 148 to 149 of section 1.1.2 of Chapter II of this report).

1.2. Government Systems for the Procurement of Goods and Services

1.2.1. Follow-up on implementation of the recommendations formulated in the Second Round

Recommendation 1.2.1. suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

That the appropriate authority adopt regulations on the hypothetical circumstances listed in subsections (b), (d), (e), (f), and (h) of Article 33 of the Law on Government Contracting (Law 2051/2003), bearing in mind the regulations on subsections a), c) and g) in Articles 69 to 74 of the Regulations on the Law on Government Contracting (Regulatory Decree 21909/2003).

[151] In its response, the State under review presents information and new developments in relation to the preceding measure, among which the Committee highlights the following as a step contributing to progress in its implementation:⁴⁵

[152] – The instruction to verify the requirements for bidders and the public servants involved to initiate an exception procedure.

[153] In this regard, the Committee takes note of the measure taken by the State under review to implement the preceding recommendation as well as of the need for it to continue to pay attention to said recommendation, inasmuch as that does not regulate the exceptions that are the subject of the recommendation.

[154] The Committee also notes that this instruction cannot be found on the Internet Portal of the National Department of Government Contracting (*Dirección Nacional de Contrataciones Públicas – DNCP*) and considers that facilitating public access to this information would be very useful to the State under review in its efforts to make the processes more transparent. The Committee deems it advisable to restate the preceding recommendation (see recommendations 1.2.3.1 and 1.2.3.2 in section 1.2.3 of Chapter II of this report).

Recommendation 1.2.2. suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Continue to strengthen the governing bodies of the Government Procurement System, in particular the Central Regulatory and Technical Unit (UCNT) and the Procurement Operations Units (UOCs), with respect to the functions they carry out in connection with the administration and control of the system, providing them with the necessary resources to carry out their functions properly and creating mechanisms that permit effective institutional coordination of their activities as well ongoing evaluation and follow-up of said activities.

[155] In its response, the State under review presents information and new developments in relation to the preceding measure, among which the Committee highlights the following as a step contributing to progress in its implementation:⁴⁶

[156] “As one of the policies intended to organize and standardize the activities of the Procurement Operations Units, the DNCP issued Resolution 849/15,⁴⁷ which establishes an evaluation criterion and a verification procedure to ensure compliance with the prohibitions established in Article 40 of Law 2051/2003.”

⁴⁵ Response of Paraguay to the questionnaire for the Fifth Round, p. 32.

⁴⁶ Response of Paraguay to the questionnaire for the Fifth Round, p. 33.

⁴⁷ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

[157] It bears noting that operative paragraph 1 of said Resolution 849/15 provides that the evaluation criteria referred to in that instrument are aimed at ensuring that the bidders are not subject to the prohibitions established exclusively in subparagraphs “a” and “b” of Article 40 of the Law on Government Contracting (LFP),⁴⁸ but not in the other cases covered in subparagraphs “d” to “l.”

[158] In this connection, the Committee notes that, during the on-site visit, the representatives of the National Department of Government Contracting (DNCP) indicated that prior mechanisms for detecting conflicts of interest of public servants participating in contracting processes were not adequate, and that this resolution laid the foundations for detecting said conflicts of interest, especially because, as was pointed out, a database had also been created that made it possible to ascertain whether the suppliers were public servants subject to the disqualifications under subparagraphs “a” and “b” of Article 40 of the LFP.

[159] This notwithstanding, the Committee observes that, in its response, the State under review presented the document titled “2013 Evaluation of the National Government Contracting System of Paraguay,” based on the OECD/DAC methodology, which was drawn up by the DNCP with support from the Inter-American Development Bank (IDB)⁴⁹ and which formulates a consolidation plan. The following weaknesses are identified in the section of that document on the legal and regulatory framework:

[160] *“1. **Inadequate structuring of the Procurement Operations Units, in each entity obliged to enforce the Law “On Government Contracting.”** Bearing in mind that one of the principles advanced and guaranteed by the applicable legislation on government contracting is precisely Operational Decentralization, this is a point that requires immediate attention by the law enforcement body. Indeed, the absence of uniform criteria on the structure of the UOCs has a negative impact on the effectiveness and efficiency of the contracting carried out by each government entity subject to the provisions of the contracting law. This measure will require action by various entities, such as the Civil Service Secretariat, the Ministry of Finance, and obviously the National Department of Government Contracting.”*

[161] *“Perhaps, and given that institutions that are not under central government control are also subject to the Law on Government Contracting (e.g., municipalities, public enterprises, universities, etc.), it will likewise be necessary to incorporate the structure of the UOCs into a law other than the budget law.”*

[162] *“2. **“Professionalization of the UOC public servants.** This factor is closely related to the previous one since, once the matter of an appropriate structure for the UOCs has been resolved, efforts must be made to train and professionalize the public servants who make them up, so that the processes they carry out will achieve desired results at the lowest possible cost. This effort will require assistance, inter alia, from the Civil Service*

⁴⁸ Law 2051 on Government Contracting. Article 40. *The following may not submit proposals in the contracting procedures covered by this law, nor may they enter into contracts with the organs, entities, or municipalities:*

a) Public servants or employees who are involved in any stage of the contracting procedure, and who have a personal, family, or business relationship with the supplier or contractor, including anyone who stands to gain in any way, his or her spouse, or relatives by blood or marriage up to the fourth degree, or any third parties with whom they have professional, work, or business relations, or partners, shareholders, or companies in which the public servant or employee or the persons referred to above are or have been part in the previous six months;

b) Those who are ineligible pursuant to the Civil Service Law”;

(...)

⁴⁹ 2013 Evaluation of the National Government Contracting System of Paraguay, p. 132.

<https://www.contrataciones.gov.py/sicp/download/getFile?cid=91734&fileName=OAwkXiYNi6QOh%2BTIKqR3782C1d%2Fp2D6FmxElfpxwY1aLVinlWtzvGdBmh2XMqGbToLnFujysxvokFhoZ2r2EwFoBkCndwvLdIL6mCLcMK55k1vmrNe%2BbigA3ZITZGCuBAzL7KEiR26IpwICVjA0OPww%3D%3D>.

Secretariat, the Ministry of Education and Worship, and the national universities. In addition, as for the previous point, given that some institutions are not part of the central government, a law may be needed that approves certain standards or levels of professionalism for the public servants of the UOCs.”

[163] ***“Inexistence of a career service for government contracting officials. This weakness is closely tied to the one related to the professionalization of the UOC public servants, developed in Pillar I, to which we refer.”***

[164] With respect to the inexistence of a career service system for government contracting officials, it bears recalling that during the Fourth Round, in which the oversight bodies, which include government contracting officials, were examined, it was determined that the career service system had not yet been implemented and a specific recommendation was made to “[i]ntroduce regulations for and implement the civil service career system in the SFP and the institutions under its authority, ensuring that entry into this career service is according to the principle of merit, while taking the competence factor into account,”⁵⁰ and similar recommendations, which are still in effect, were made for the other oversight bodies.⁵¹ Accordingly, the Committee reiterates the recommendations made in the context of the Fourth Round of Review and urges the State under review to implement the career service in the public administration.

[165] Notwithstanding the foregoing, the Committee deems it advisable for Paraguay to consider the possibility of taking appropriate legislative measures to regulate the structure of the UOCs, including, among other things, suitable standards of professionalism for the public servants who make them up. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.3 in section 1.2.3 of Chapter II of this report).

[166] Second, the Committee notes that Recommendation 1.2.2 above also refers to the consolidation of the Central Regulatory and Technical Unit (UCNT) as the governing body of the national government contracting system. However, the Committee observes that in 2007, Law 3.439/07 created the National Department of Government Contracting (DNCP), which replaced the UCNT; accordingly, this recommendation will have to be reformulated to reflect that new circumstance. In addition, during the on-site visit, the Committee noted that the recommendation to strengthen the governing body of the national government contracting system with the human and financial resources needed for the due performance of its functions remained in effect.

[167] Moreover, as concerns the consolidation of the Procurement Operations Units (UOCs), the DNCP representatives said that they did not have any structured data on the budgets allocated to said units.

[168] In view of the above, the Committee takes note of the progress made by the State under review in implementing the preceding recommendation, as well as of the difficulties it identified, and, as set forth in the foregoing paragraphs, it deems it advisable to restate the recommendation, notwithstanding the recommendations arising from the analysis of Resolution DNCP 849/15 in the section “New Developments” (see recommendations 1.2.3.4 and 1.2.3.5 in section 1.2.3. of Chapter II of this report).

Recommendation 1.2.3.

Strengthen the control mechanisms of the Government Procurement System.

Measure a) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Develop and implement a system of sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the Law on Government Contracting (Law 2051/2003) and its

⁵⁰ See the Report of Paraguay on the Fourth Round, paragraph 155 and Recommendation 4.4.1.

⁵¹ Public Prosecution Service (*Ministerio Público*), Office of the Comptroller General of the Republic, and the Judiciary. See the Report of Paraguay on the Fourth Round.

Regulations (Regulatory Decree 21909/2003). This system could be included in the legal instrument suggested in section 1.1 above or in the laws governing such matters.

[169] In its response, the State under review did not refer to the implementation of the preceding measure.

[170] In this regard, the Committee wishes to recall that this recommendation goes back to the Second Round analysis, in which the Committee noted “*an absence of provisions establishing sanctions for government servants and employees who fail to fulfill or infringe the provisions that govern the Government Procurement System. The foregoing is without prejudice to the Article 76 of Law 2051/2003, which provides that government servants and employees who infringe the aforesaid provisions shall be punished in accordance with the Civil Service Law (Law 1626/2000), many of the provisions of which, as mentioned in section 1.1.1, have been suspended because they have been challenged as unconstitutional.*”⁵²

[171] It should be mentioned that, during the on-site visit, the representatives of the civil society organization “Development Information and Resource Center Foundation” (*Fundación Centro de Información y Recursos para el Desarrollo – CIRD*) said that one of the challenges facing the system was the need to comply with the provisions of the Law on Government Contracting (Law 2051/2003), which establishes that government servants and employees who infringe the provisions of that law shall be punished in accordance with the Civil Service Law (Law 1.626/2000), but in practice the government servants are not punished because they have brought legal actions against the LFP on grounds of unconstitutionality, which have not been resolved by the Supreme Court of Justice (CSJ), and this prevents their prosecution.

[172] Along the same lines, the Committee notes that in the aforementioned 2013 Evaluation of the National Government Contracting System of Paraguay, provided by the State under review in its response to the questionnaire, the following weaknesses are identified in the chapter on the Consolidation Plan:

[173] “**25. Weakness in the system for punishing public servants involved in corrupt practices.** *This weakness largely depends on appropriate action by the oversight bodies and on their calling on the relevant agencies to provide adequate processes. Inasmuch as this weakness is linked to the absence of proactive, preventive mechanisms, its reversal will require action on the part of the most important oversight bodies, i.e., the CGR and the AGPE. Short- and medium-term solution.*”

[174] In view of the foregoing, the Committee takes note of the need for the State under review to pay attention to implementation of the preceding measure and deems it advisable to restate it (see Recommendation 1.2.3.6 in section 1.2.3 of Chapter II of this report).

Measure b) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Develop and implement provisions for the selection of a person or body to carry out the tasks of audit, control, and monitoring of contracts where the amount or particular level of complexity so warrant.

[175] In its response, the State under review did not refer to the implementation of the preceding measure. However, during the on-site visit, the DNCP representatives pointed out among their difficulties that, although a Verification Unit for contracts had been consolidated, it was not yet able to function properly because of internal control problems.

⁵² Report of Paraguay on the Second Round, p. 10.

[176] In view of the foregoing, the Committee takes note of the difficulties identified by the State under review and deems it appropriate to restate the recommendation (see recommendations 1.2.3.7 and 1.2.3.8 in section 1.2.3 of Chapter II of this report).

[177] Likewise, the State under review notes that during the on-site visit, the civil society organization CIRD pointed out that one of the challenges to the implementation of this measure was the need to “[s]trengthen within the DNCP the body responsible for monitoring contract implementation and execution.”⁵³

Measure c) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Create qualified citizen “watchdogs” to monitor the pre-contractual phase and the execution of government contracts where the nature, importance or magnitude so warrants.

[178] The State under review did not refer to this measure in its response.

[179] However, during the on-site visit, the DNCP pointed out that no formal mechanism for citizen oversight had been established and that, although fragmented interventions took place, the processes were not at all institutionalized.

[180] They also reported that cooperative relations existed with some civil society organizations and that an Open Government panel had been installed in which these organizations played a proactive role, which had not been the case previously. Nonetheless, they commented that there was no history of joint citizen oversight or monitoring initiatives.

[181] Thus, the Committee takes note of the progress made by the State in terms of cooperative relations with civil society as well as of the need to follow up on implementation of the preceding measure, taking into account that its origin goes back to the Second Round analysis, when the Committee deemed it appropriate for the State under review to examine “*the possibility of creating qualified citizen “watchdogs” to monitor pre-contractual procedures and on the execution of government contracts where the nature, importance or magnitude so warrants, taking into account the signed agreements entered into by the UCNT [now the DNCP] with several organizations, including the Paraguay Chapter of Transparency International, the Paraguayan Construction Chamber, the Paraguayan Industrial Union, the Paraguayan Dairy Board, the Paraguayan Organization for Inter-Municipal Cooperation, and the United States Agency for International Development (USAID), as well as with other regional citizen watchdog organizations.*”⁵⁴ The Committee deems it advisable to restate this measure (see Recommendation 1.2.3.9 in section 1.2.3 of Chapter II of this report).

[182] In addition, the Committee observes that, during the on-site visit, the civil society organization CIRD commented that the DNCP web page was not user-friendly, that document searches were difficult, and that it was practically impossible for the public to draw comparisons or conduct searches in order to follow up on procedures.⁵⁵ This was corroborated by the representatives of the DNCP itself, and the Committee will refer to the matter in the section “New Developments.”

Measure d) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

⁵³ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

⁵⁴ Report of Paraguay on the Second Round, p. 11.

⁵⁵ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

Develop, implement and publicize mechanisms or systems for the rendering of periodic accounts both by suppliers and contractors and by persons or entities directly responsible for supervision, control and oversight of contracts.

[183] In its response, the State under review presents information and new developments in relation to the preceding measure, among which the Committee highlights the following as a step contributing to progress in its implementation:⁵⁶

[184] *“As one of the policies intended to organize and standardize the activities of the Procurement Operations Units, the DNCP issued Resolution 849/15,⁵⁷ which establishes an evaluation criterion and a verification procedure to ensure compliance with the prohibitions established in Article 40 of Law 2051/2003.”*

[185] The Committee notes that the origin of this recommendation goes back to the Second Round analysis, in which the Committee said that it was unable *“to identify any systems for the rendering of periodic accounts both by suppliers and contractors and by persons or entities directly responsible for supervision, control and oversight of contracts.”*

[186] In this regard, and notwithstanding the analysis of this norm that will be made in the section “New Developments,” the Committee observes that the norm does not provide for the rendering of periodic accounts but rather refers to the cases of prohibitions established in subparagraphs “a” and “b” of Article 40 of the Law on Government Contracting (LFP).⁵⁸

[187] In view of the above, the Committee takes note of the progress made by the State under review in implementing the preceding recommendation and of the need to continue paying attention to it (see Recommendation 1.2.3.10 in section 1.2.3 of Chapter II of this report).

Recommendation 1.2.4. suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round

Develop and implement electronic systems of contracting that allow for the procurement of goods and services through such means.

[188] In its response, the State under review presents information and new developments in relation to the preceding measure, among which the Committee highlights the following as a step contributing to progress in its implementation:⁵⁹

[189] *“Through Decree 1107/14, the executive branch created the Electronic Reverse Auction procedure, which is a complementary government contracting method consisting of bidding, in public session, through an Internet-*

⁵⁶ Response of Paraguay to the questionnaire for the Fifth Round, p. 33.

⁵⁷ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

⁵⁸ Law 2.051 on Government Contracting. Article 40. *“The following may not submit proposals in the contracting procedures covered by this law, nor may they enter into contracts with the organs, entities, or municipalities:*

a) Public servants or employees who are involved in any stage of the contracting procedure, including anyone who stands to gain in any way, his or her spouse, or relatives by blood or marriage up to the fourth degree, or any third parties with whom they have professional, work, or business relations, or partners, shareholders, or companies in which the public servant or employee or the persons referred to above are or have been part in the previous six months;

b) Those who are ineligible pursuant to the Civil Service Law”;

(...)

⁵⁹ Response of Paraguay to the questionnaire for the Fifth Round, p. 33.

based computerized system administered by the DNCP. This module can be accessed through the “SBE” window on the portal’s home page.”⁶⁰

[190] *“Similarly, as concerns management transparency, the DNCP, along with other institutions, has participated in the formulation of the 2014/2016 Paraguay Open Government Action Plan and is the body responsible, under Commitment No. 9, for creating a system for electronic legal transactions in publicly accessible government contracting.”⁶¹*

[191] Notwithstanding the above, the Committee points out that, during the Second Round, the State under review had a government contracting portal called “*Contrataciones Paraguay*,” whose web page, <http://www.contratacionesparaguay.gov.py/>, is still not operational and whose analysis gave rise to the preceding recommendation. This portal has been replaced by the institutional portal of the DNCP, <https://www.contrataciones.gov.py/>, which will be examined in the section “New Developments.”

[192] Taking the foregoing into account, the Committee takes note of the progress made by the State under review in implementing the preceding recommendation and deems it advisable to restate it in accordance with the analysis made in relation to new electronic contracting systems in the section “New Developments” (see recommendations 1.2.3.17 to 1.2.3.26 in section 1.2.3. of Chapter II of this report).

Recommendation 1.2.5.

Complement the public works procurement system contained in the Law on Government Contracting (Law 2051/2003).

Measure a) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Consider development and implementation of provisions on supervening circumstances which would justify amendments to a public works contract, including cases in which the State or the contractor might be entitled to compensation, without prejudice to Article 62 of the Law on Government Contracting (Law 2051/2003).

[193] In its response, the State under review presents information on the Law on Government Contracting (Law 2051/2003), noteworthy among which is the following:

[194] *“Any supervening amendments to the public works contract and their effects are covered by Article 55, in addition to Article 62, of Law 2051/2003.” (...)*

[195] In this regard, the Committee wishes to point out that the information provided by the State under review in its response is not new and was examined previously during the Second Round, in which the Committee said: *“the Committee recognizes the efforts of the Republic of Paraguay to have a modern public works procurement system, which is reflected both in Law 2051/2003 and in its Regulations. However, it would be useful if the country under review were to consider complementing this system through inclusion of the following measures”⁶²*

[196] The measures referred to in the preceding paragraph are precisely measure (a) in Recommendation 1.2.5 above and measure (b) below. In light of the foregoing, the Committee takes note of the need for the State under

⁶⁰<https://www.contrataciones.gov.py/sicp/sbe/busquedaSubasta.seam?filtrosBusqueda=subasta%2Ctrue%3Bestado%2CPUB&tieneFormBusqueda=false&actionMethod=sbe/busquedaSubasta.xhtml%3AbusquedaLlamadoAction.buscarSubastas&cid=18671>.

⁶¹<http://www.gobiernoabierto.gov.py/sites/default/files/Plan%20de%20Acci%C3%B3n%202014-2016%20de%20Gobierno%20Abierto%20Paraguay.pdf>.

⁶² Report of Paraguay on the Second Round, p. 11.

review to pay attention to implementation of the preceding measure (see Recommendation 1.2.3.11. in section 1.2.3. of Chapter II of this report).

Measure b) suggested by the Committee which requires further attention under the terms envisaged in the report from the Third Round:

Consider development and implementation of comprehensive citizen oversight mechanisms that cover all the different stages of public works procurement procedures, without prejudice to existing internal or external institutional controls.

[197] In its response, the State under review presents the following information in relation to this measure:

[198] *The Network of Citizen Oversight Offices of Paraguay has been in place since March 1999. However, we consider that dialogue with these organizations must be revitalized and joint efforts reinvigorated, since in recent years their dealings with the public administration have not been apparent.*⁶³

[199] The Committee notes that, during the on-site visit, the representative of the Citizen Oversight Office of Asunción (CCA) reported that the Network of Citizen Oversight Offices had done good work over many years and had served as a basis for training citizens to perform oversight functions. However, the Network had disappeared 10 years earlier. Citizen oversight offices remained scattered around the country, and the Observatory for Citizen Monitoring and Oversight had been set up. They also confirmed that there had been no activity with the DNCP and that there was still a lack of transparency in the information available to the institution, which hindered any possible follow-up.

[200] This last difficulty was also mentioned by other civil society organizations, especially with respect to the information available on the institution's Internet portal, which will be examined in the section "New Developments."

[201] In view of the foregoing, the Committee takes note of the need for the State under review to pay attention to implementation of the preceding measure (see Recommendation 1.2.3.12. in section 1.2.3. of Chapter II of this report).

Recommendation 1.2.6.

Conduct periodic comprehensive evaluations to appraise the use and effectiveness of the Government Procurement System and, based on their findings, determine and consider the adoption of specific measures with which to ensure its transparency, openness, equity, and efficiency.

[202] In its response, the State under review presents information and new developments in relation to the preceding measure, among which the Committee highlights the following as steps contributing to progress in its implementation:⁶⁴

[203] – *"The Institutional Internal Audit Office of the DNCP draws up every year an annual work plan, schedule of activities, and institutional risk identification and an institutional risk management plan."*⁶⁵

⁶³ <http://www.cird.org.py/periodico/200704/noticia14.php>.

<http://www.cird.org.py/periodico/200306/html/nota01.html>.

⁶⁴ Response of Paraguay to the questionnaire for the Fifth Round, pp. 34-35.

⁶⁵ Resolution DNCP 3384/2014, "which approves the Annual Work Plan, risk identification and the risk management plan, and the schedule of activities of the Institutional Internal Audit Office for the 2015 period."

[https://www.contrataciones.gov.py/sicp/download/getFile?cid=31667&fileName=OAwkXiYNi6QOh%2BTIKqR3782C1d%](https://www.contrataciones.gov.py/sicp/download/getFile?cid=31667&fileName=OAwkXiYNi6QOh%2BTIKqR3782C1d%20)

[204] – The 2013 Evaluation of the National Government Contracting System of Paraguay, drawn up by the DNCP, with assistance from the IDB and the World Bank (WB), which is the result of a process initiated in 2003 and continued in 2007 and which contains recommendations and a suggested plan of action for strengthening the system.

[205] First, as regards the annual work plan of the Institutional Internal Audit Office of the DNCP, the Committee observes that said document does not appear on the institutional Internet portal.

[206] What is more, although the link provided by the State under review in its response is a direct link to Resolution 3384/2014, which approves the annual work plan, risk identification and the risk management plan, and the schedule of activities of the Institutional Internal Audit Office for the 2015 period, the approved documents are not attached nor is it possible to find them through the tool provided under the heading “Search for Documents of Interest.”

[207] In this regard, the Committee notes that, during the on-site visit, the civil society organizations pointed to the need to publish the annual internal audit reports of the DNCP, as well as the annual reports of the Auditor General’s Office.⁶⁶

[208] Finally, the Consolidation Plan contained in the 2013 Evaluation of the National Government Contracting System identifies the following as a weakness:

[209] **“18. Insufficient dissemination of institutional and general audit reports.** *As it is linked to the absence of proactive, preventive mechanisms, this weakness, which is easier to solve than the previous ones, will nonetheless require action by the most important oversight bodies, i.e., the CGR and the AGPE. Short- and medium-term solution.*

[210] In this respect, the Committee considers it appropriate for the State under review to publish on the DNCP portal the institutional audit reports, as well as its annual work plan, schedule of activities, and institutional risk identification and the institutional risk management plan, in an easily accessible, user-friendly format (see Recommendation 1.2.3.13 in section 1.2.3. of Chapter II of this report).

[211] Second, the Committee notes the progress made by the State under review through the 2013 Evaluation of the National Government Contracting System of Paraguay, as well as its recommendations and suggested plan of action, which contribute to the implementation of the preceding recommendation.

[212] On this point, the Committee notes that while the State under review provided a direct link to the website containing the document on the DNCP portal, unless a user has this direct link, it is impossible to find the document easily on the portal. In fact, anyone wishing to access the document must enter through the link “Search for Documents of Interest,” and, without a specific document number, the document cannot be found.

[213] Thus, the Committee deems it advisable for the State under review to publish this document on the DNCP’s institutional portal in such a way that it can be easily located by an ordinary user, as well as to make it publicly available. The Committee will formulate a recommendation to this effect (see recommendation 1.2.3.14. in section 1.2.3. of Chapter II of this report).

[2Fp2D6FmxElfpxwY1aLVin1WtzvGeKt7M%2FkWC6UU587FLewe0414u3HhiOtZK6rQ3nGAAVa9CGPr2ziq%2B7u6HtvBqvcCqX%2FU5%2F2vnEfGiqLM5EF%2Fb1hYd6XGE%2F85w%3D%3D.](http://www.oas.org/juridico/spanish/mesicic5_pry.htm)

⁶⁶ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

[214] Finally, the Committee takes note of the progress made by the State under review and deems it appropriate to restate this recommendation in the Results section, where an analysis will be made of the 2013 Evaluation of the National Government Contracting System of Paraguay and its Consolidation Plan (see recommendations 1.2.3.27 and 1.2.3.25. in section 1.2.3. of Chapter II of this report).

[215] In addition, as concerns this matter, the Committee observes that, during the on-site visit, the civil society organizations pointed to the need to follow up on implementation of the Consolidation Plan as well as to make the indicators public so that information is available on the percentage of implementation of next steps.

1.2.2. New developments with respect to the provisions of the Convention on government systems for the procurement of goods and services

[216] The Committee had access to information on the following new developments in the area, on which it will make relevant comments and recommendations:

1.2.2.1. Developments with respect to the legal framework

a. Scope

[217] Law 3439/2007, which creates the National Department of Government Contracting and establishes its organic charter, assigning as one of its functions: “... *To establish its organizational structure, creating and organizing the offices within it, adopting regulations for its functions and powers, and amending them*”

[218] Resolution DNCP 849/2015, which adopts an evaluation criterion for qualifying the legal capacity of the bidder in relation to the prohibition established in subparagraphs “a” and “b” of Article 40 of Law 2051/2003 “On Government Contracting,” which recommends to the organs, entities, and municipalities that said criterion be used in the processes governed by Law 2051/0303 and that it be disseminated on the Government Contracting Portal.

[219] Resolution DNCP 2728/2015, which creates the Public Information Access Office and appoints the responsible official.

c. Observations

[220] The Committee recognizes that the new normative developments in this area are positive steps in that they establish legal and regulatory provisions for government procurement of goods and services. This notwithstanding, the Committee deems it appropriate to make a few observations on them:

[221] In relation to Resolution DNCP 849/2015, which adopts an evaluation criterion for qualifying the legal capacity of the bidder in relation to the prohibition established in subparagraphs “a” and “b” of Article 40 of Law 2051/2003 “On Government Contracting,” which establishes that “[t]he following may not submit proposals in the contracting procedures covered by this law, nor may they enter into contracts with the organs, entities, or municipalities:

[222] “a) *Public servants or employees who are involved in any stage of the contracting procedure, and who have a personal, family, or business relationship with the supplier or contractor, including anyone who stands to gain in any way, his or her spouse, or relatives by blood or marriage up to the fourth degree, or any third parties with whom they have professional, work, or business relations, or partners, shareholders, or companies in which*

the public servant or employee or the persons referred to above are or have been part in the previous six months”;

[223] *“b) Those who are ineligible pursuant to the Civil Service Law”;*⁶⁷

[224] First, as concerns the nature of the evaluation criterion for qualifying the legal capacity of bidders in relation to the prohibitions in question, the Committee observes that the seventh preambular paragraph of Resolution 849/2015 provides that:

[225] *“(…) and having detected the need to regulate in a more precise and uniform manner the criteria for determining the legal capacity of bidders, it is appropriate to issue as a best practices guide⁶⁸ a series of general guidelines for qualifying said bidders in relation to the prohibitions set forth in subparagraphs “a” and “b” of Article 40 [of Law 2051/2003 “On Government Contracting”].”*

[226] In this respect, the Committee notes that these criteria constitute a best practices guide that, while it may be of great use in improving government contracting processes, by its very nature it does not contain measures to ensure that these guidelines will be used in practice, nor consequences for those who are responsible for determining the legal capacity of bidders and fail to follow the guidelines.

[227] The Committee also notes that these criteria are applicable only in those cases covered by the prohibitions set out in subparagraphs “a” and “b” of Article 40 of the Law on Government Contracting (LCP), inasmuch as this article contains 10 additional hypothetical cases in its paragraphs “c” to “l.” In this connection, the Committee deems it appropriate for the State under review to consider taking the necessary measures to ensure the existence of mandatory criteria for qualifying the legal capacity of bidders in connection with all the prohibitions covered in the Civil Service Law. The Committee will formulate a recommendation to this effect (see recommendation 1.2.3.15 in section 1.2.3. of Chapter II of this report).

[228] Second, the Committee observes that Article 1 establishes that *“[t]he Evaluation Committee shall confirm that the bidder is not subject to the prohibitions established in Article 40, subparagraphs “a” and “b” of Law 2051/2003”*

[229] On this point, it bears mentioning that Article 27 of the Law on Government Contracting, while it establishes that the Evaluation Committee will be made up *“of the necessary public servants and with any external professional technical assistance deemed appropriate,”* no criteria are established on how its members are chosen, how the number of members is determined, how the external professional assistance is selected, or whether there are set time periods for it to perform its functions. Accordingly, the Committee deems it advisable for the State under review to adopt regulations on the constitution, duration, and operations of the Evaluation

⁶⁷ Disqualifications from contracting are covered in Article 16 of Law 1626/2003, the Civil Service Law, which provides that: *The following persons are disqualified from joining the civil service and from contracting with the State:*

a) Persons condemned to prison by final judgment, during the duration of the sentence;

b) Persons disqualified from exercising public functions;

c) Persons convicted of electoral crimes;

d) Persons declared to be unfit in a judicial proceeding pursuant to Article 73 of the Civil Code;

e) Former public servants and employees who ended their legal relationship with the State for good cause not attributable to the employer, unless a period of five years has elapsed since their removal; and

f) Pensioners receiving a full or total civil service pension. This article is amended by Law 3989/2010; the current text reads pensioners receiving a full or total civil service pension, with the exception provided for in Article 143 of the current law.

⁶⁸ Emphasis added.

Committees, and it will formulate a recommendation to this effect (see Recommendation 1.2.3.16. in section 1.2.3 of Chapter II of this report).

[230] In third place, the Committee notes that Article 2 of the resolution establishes the following: “**ORDER** the publication of the present evaluation criterion on the Government Contracting Portal, at the appropriate link.”

[231] In this regard, the Committee points out that it is impossible to find this criterion on the Government Contracting Portal, whose document search engine is confusing and not user-friendly. Accordingly, the Committee deems it advisable for the State under review to create an easily accessible link to this resolution on its web page, in order to comply with the terms of the aforementioned Article 2 and ensure that the resolution is publicly accessible. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.17. in section 1.2.3. of Chapter II of this report).

[232] In fourth place, the Committee notes that Article 1 provides that the Evaluation Committee will verify that “[t]he bidder has satisfactorily provided the Sworn Statement that he/she/it does not come under the prohibitions and limitations established in Article 40 of Law 2051/2003, which is a standard form provided in the bidding documents.”

[233] However, the Committee observes that in information provided during the on-site visit on the evaluation criterion in Resolution 849/2015, the DNCP representatives indicated that “[t]his monitoring system, however, comes into play *ex post facto*. Still pending is the development of an effective system for public servants to declare their assets prior to their attaining certain positions.”⁶⁹

[234] In this respect, the Committee also notes that in the 2013 Evaluation of the National Government Contracting System of Paraguay, drawn up by the DNCP with IDB assistance, specifically in the section on the Consolidation Plan, the following was identified as a weakness:⁷⁰

[235] “**24. Absence of a regulation on conflicts of interest applicable to public servants and former public servants.** This weakness requires amendment of the current Civil Service Law. Doing so requires the collaboration of the Civil Service Secretariat and Parliament. Given the interests involved, we can consider this a long-term process.”

[236] On this specific point, the Committee wishes to point out that the matter was examined in the context of the First Round, during which recommendations were made to address the problem in Chapter 1.1. “Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms,” whose implementation was followed up on in the Fourth Round. In this regard, the Committee takes note of the difficulties identified by the State under review and reiterates the recommendations formulated in the First Round and updated in the Fourth.⁷¹

[237] In fifth place, the Committee notes that, during the on-site visit, the representatives of the Civil Service Secretariat and the DNCP said that a difference of opinions existed regarding the definition of a public servant. This is especially important in trying to define whether a supplier is a public servant and is therefore unable to enter into contracts with the State.

[238] On this point, it was explained that the difference of opinion was related to the difference between permanent and contract public servants. In the view of the SFP, a public servant is someone who performs

⁶⁹ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

⁷⁰ 2013 Evaluation of the National Government Contracting System of Paraguay, p. 139.

⁷¹ Report of Paraguay on the Fourth Round, p. 58. Single recommendation in section 1.1. “Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms.”

government services regardless of the type of employment relationship, whereas the DNCP considers that contract personnel are not public servants. This would mean that the disqualification criterion would not apply to contract personnel in contracting processes with the State and that said criterion would apply exclusively to public servants in permanent posts; what is more, there is an endemic problem of public servants operating as government suppliers.

[239] In this regard, the Committee wishes to recall that the Convention does not draw any distinction as to the type of employment relationship with the State and gives the following definition:

[240] *“Public official,” “government official,” or “public servant” means any official or employee of the State or its agencies, including those who have been selected, appointed, or elected to perform activities or functions in the name of the State or in the service of the State, at any level of its hierarchy.”*⁷²

[241] In view of the foregoing, the Committee deems it appropriate for the State under review to consider the necessary legislative means to bring the definition of public servant into line with the Convention and, to that end, it has already formulated a recommendation in the section on systems of government hiring (see Recommendation 1.1.3.6 in section 1.1.3. of Chapter II of this report).

[242] In sixth place, the Committee observes that the same Article 1 of the resolution establishes that the Evaluation Committee *“shall verify through available means whether the bidder and the other parties identified in the prohibitions contained in Law 1626/00, “On the Civil Service,” appear in the database of SINARH [National Human Resource System of the Ministry of Finance]⁷³ or in that of the Civil Service Secretariat.”*

[243] As concerns the foregoing, the Committee points out that, during the on-site visit, the representatives of the Civil Service Secretariat (SFP) indicated as a difficulty that not all institutions were part of SINARH, as was the case of municipalities and autonomous entities, which hindered verification by the Selection Committee.

[244] On this point, the Committee observes that this difficulty is an across the board issue that was examined in the previous section on systems for hiring public servants, in which a recommendation was made to consider incorporating the payrolls of all government bodies and agencies, including the municipalities and autonomous entities, into the National Human Resource System (SINARH) of the Ministry of Finance. The Committee considers that this recommendation is likewise relevant for the effective verification of possible conflicts of interest in government contracting processes (see Recommendation 1.1.1.13 in section 1.1.3. of Chapter II of this report).

[245] Moreover, in relation to the use of the SFP database for verifications under the resolution, the representatives of this institution also said that it does not have a total list of the public servants of all government organs and entities since that depended on said organs and entities providing the SFP representatives with updated information. In this regard, they reported that the National Information and Communication Technology Secretariat (SENATICS) had created a database that would enable information to be cross-checked, so that government bodies could update their personnel lists and thus provide the SFP with an updated registry through data cross-checking. However, they reported that there was still a problem with digital inclusion, which would have to be solved before optimal use could be made of the tool.

[246] In light of the above, the Committee deems it advisable for the State under review to take the necessary measures to strengthen interagency coordination and data cross-checking, so that the SFP may have complete,

⁷² Inter-American Convention against Corruption, “Definitions.”

⁷³ <http://nomina.paraguay.gov.py/nomina/>.

updated data on the payrolls of all public servants of the institutions under its authority in order to perform an effective verification of possible conflicts of interest in government contracting processes. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.18 in section 1.2.3 of Chapter II of this report).

1.2.2.2. New developments with respect to technological matters

[247] The Government Contracting Information System of the Republic of Paraguay⁷⁴ of the National Department of Government Contracting (DNCP), whose mission is *“to regulate and optimize, and ensure transparency in, the Government Contracting System and to support all actors involved, with the aim of achieving management excellence.”*

[248] Decree DNCP 1107/14, *“which creates the electronic reverse auction procedure,”* and revokes Decrees 12.453/2008 and 5517/2010, whereby the executive branch creates the Electronic Reverse Auction Procedure, which is a complementary government contracting method consisting of bidding, in public session, through an Internet-based computerized system administered by the DNCP.⁷⁵

a. Observations

[249] With regard to the Government Contracting Information System of the Republic of Paraguay, on the DNCP institutional portal, the Committee would like to make the following comments:

[250] First, the Committee points out that, although the portal displays a link to its legal framework, which claims to contain “Laws, Decrees, Circulars, Forms, Agreements, Standards, Documents of Interest, and Internal Circulars,” when users try to gain access to these links, they are taken to a page with a data search tool that is confusing and not very user-friendly and that makes it almost impossible for ordinary users to access the required information. In this regard, the Committee considers it advisable for the State under review to consider publishing the normative framework of the government contracting system on its institutional portal in a user-friendly format that will enable easy public access to this information. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.19 in section 1.2.3 of Chapter II of this report).

[251] Second, the Committee notes that, during the on-site visit, the civil society representatives indicated that the information available on the institutional portal with regard to government contracting procedures was only available up to the award stage, with no information on subsequent stages. In addition, they said that it was impossible to apply filters to obtain information and to conduct any type of follow-up, since all this information was stored in PDF formats and further that the system requested a password to obtain access to the databases.

[252] This information was confirmed by the DNCP representatives, who said that information was indeed available only up to the contract award stage, but that there was no information on follow-up to the execution stages. The Committee also notes that, during the on-site visit, the DNCP representatives confirmed the comments of the civil society organizations to the effect that the format in which information was presented on the institutional portal made it impossible to search for information and to make comparisons by item in the published contracting processes. They said that they were working on a new page that would accommodate the use of filters and allow for follow-up by ordinary users.

⁷⁴ <https://www.contrataciones.gov.py/>.

⁷⁵ http://www.presidencia.gov.py/archivos/documentos/DECRETO1107_hm2hyu42.pdf.

[253] In view of the foregoing, the Committee deems it appropriate for the State under review to modify its institutional portal, utilizing a user-friendly format, so that filters may be used and comparisons made at all stages of government contracting, including follow-up of contract execution by supplier and by contract, which will be useful for citizens to follow up on these processes. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.22 in section 1.2.3 of Chapter II of this report).

[254] Third, the Committee notes that, during the on-site visit, the civil society organizations pointed out that, although the list of disqualified contractors was published, in accordance with Article 75 of the Law on Government Contracting, this list only contained the names of those contractors whose disqualifications were still in effect, but there was not any historical information or any way to conduct a search to ascertain whether a contractor had been disqualified in the past and, if so, on how many occasions.

[255] In this connection, during the on-site visit, the DNCP representatives confirmed this information and said that the institution did have historical records of repeat cases, but that, under the present system, the lifting of sanctions was automatic at the end of the disqualification period. They also reported that they had a mechanism for reporting cases of rescinded contracts so that they could be used in disciplinary action for repeat instances, but at the current time that information was not available to contracting units. In that regard, they indicated that they were trying to improve the institutional portal and, to that end, they were working on a new page that would be operational in the near future and would include historical records of disqualified contractors.

[256] In view of the above, the Committee considers it advisable for the State under review to ensure that contracting units receive notification alerts on rescinded contracts, especially in repeated instances, and that the historical records of disqualified contractors are published on the institutional Internet portal. The Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.22 in section 1.2.3 of Chapter II of this report).

[257] Fourth, the Committee notes that, during the on-site visit, the DNCP representatives reported that an e-catalog purchasing system has been operational since 2014, through the contracting method called Framework Agreement (*Convenio Marco*), which is regulated by Decree 1315/2014.⁷⁶

[258] In this respect, the Committee points out that Article 3 of Decree 1315/2014 establishes the following: *“Use of the Framework Agreement E-Catalog. Executive branch agencies, henceforth called Purchasing Units, shall, in keeping with their needs and subject to their approved budgets, first consult the E-Catalog governed by the Framework Agreements and purchase required products through this channel, if they are available in the E-Catalogue. The other organs, agencies, and municipalities covered by Law 2051/2003 may use the E-Catalog voluntarily, as they deem appropriate.”*

[259] Similarly, Article 6 of Decree 1315/2014 provides: *“The terms and conditions of each tender that results in a Framework Agreement shall be approved by a resolution of the supreme authority of the National Department of Government Contracting (DNCP).”* In this connection, during the on-site visit, the DNCP representatives indicated that, while progress had been made in implementing this system, the terms and conditions for electronic tenders had yet to be developed.

[260] In light of all the foregoing considerations, the Committee deems it appropriate for the State under review to develop the electronic terms and conditions and tender documents for the Framework Agreements. The

⁷⁶ Decree 1315/2014:

<https://www.contrataciones.gov.py/sicp/download/getFile?cid=6329&fileName=OAwkXiYNi6QOOh%2BTIKqR3782C1d%2Fp2D6FmxElfXpwY1aLVin1WtzvGf6Fbc0EDi1NNtIOqz6BJtHM1CEGntpltPg%2BfHmxP1QxYpub4G3kBiXYI7TNI7P%2BJlwvjC51DQnKx3qCq7gNsUM%3D>.

Committee will formulate a recommendation to this effect (see Recommendation 1.2.3.23 in section 1.2.3 of Chapter II of this report).

[261] The Committee also notes that during the meetings with representatives of the civil society organizations, challenges to the e-purchasing system were identified, such as the lack of uniformity in setting reference prices for the procurement of, and contract awards for, generic or ordinary goods, as well as technical specifications and the request for documentation to be presented by bidders in the diverse categories, for example, tools, medications, food services, etc.⁷⁷ In this regard, the Committee deems it advisable for the State under review to address these considerations and to standardize the reference prices and the technical specifications and requests for documentation to be presented by the bidders. The Committee will formulate a recommendation to this effect (see Recommendations 1.2.3.25 and 1.2.3.26 in section 1.2.3 of Chapter II of this report).

[262] Finally, The Committee notes that, during the on-site visit, the DNCP representatives pointed out that the institutional portal already had a new system for registering and processing electronic protests, which made it easier for the public to submit them. Further, they added that it was being implemented gradually, inasmuch as not everyone had Internet access and, for the time being, protests could be lodged either electronically or in writing. What is more, the system had only been implemented recently and, at the time of the on-site visit, it had been operational for only 30 days.

[263] In this respect, the Committee takes note of the progress reported by the State under review through this system, and deems it advisable for the DNCP to consider the possibility of taking appropriate measures to ensure that individuals who do not yet have Internet access may continue to submit their complaints and protests and that statistical data are kept on the results of the implementation of this new electronic protest system, which will indicate how many protests are received each year, the nature of those protests, how many are solved, how they are solved, and how long it takes to solve them, with a view to identifying challenges and implementing any necessary corrective measures. The Committee will formulate recommendations to this effect (see Recommendations 1.2.3.26 and 1.2.3.26 in section 1.2.3 of Chapter II of this report).

1.2.2.3. Results

[264] The State under review presented results both in the questionnaire for the 2013 Evaluation of the National Government Contracting System of Paraguay, a document drawn up by the DNCP with IDB support, and in the on-site visit, in which statistical data were provided by the DNCP and information was obtained as well from the Office of the Attorney General of the Republic.

- In relation to the 2013 Evaluation of the National Government Contracting System of Paraguay:

[265] First, the Committee notes that the 2013 Evaluation of the National Government Contracting System of Paraguay, which is the culmination of a process that began in 2003 and underwent a second stage in 2007, was conducted with IDB support and was based on the OECD/DAC methodology.⁷⁸

[266] Second, the Committee observes that weaknesses were identified in that evaluation, and a consolidation plan was therefore developed that is part of that document and contains a set of indicators to measure progress in the implementation of said plan.

⁷⁷ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

⁷⁸ <https://www.contrataciones.gov.py/sicp/download/getFile?cid=91734&fileName=OAwkXiYNi6QOh%2BTIKqR3782C1d%2Fp2D6FmxElfpxwY1aLVinlWtzvGdBmh2XMqGbToLNfUjysxvokFhoZ2r2EwFoBkCndwvLdlL6mCLcMK55k1vmrNe%2BbigA3ZITZGCuBAzL7KEiR26Ipw1CVjA0OPww%3D%3D>.

[267] Among the weaknesses identified in the Consolidation Plan, several of which have been mentioned in other sections of this report and will therefore not be repeated here, the following stand out:

[268] – **High level of market informality** “... *This topic is more than decisive if improvements are to be made in the Government Contracting System. Indeed, the high level of informality prevailing in the local market generates a series of problems linked to equal conditions and therefore to fair competition, which seriously undermines the System’s integrity*”

[269] – **Ambiguity in the norms concerning pre-qualification processes.** “*When we talk about norms, we are not referring solely to laws or regulations, but to all applicable provisions*”

[270] – **Absence of single manuals on government contracting processes.** “*... the preparation of these manuals depends on the law enforcement body (the DNCP)*”

[271] – **Arrears in contract payments.** “*While the DNCP is currently endeavoring to implement a payments control and monitoring system, it will not solve this problem entirely; it will merely help the affected suppliers and contractors to file more specific, concrete claims. We reiterate, we do not believe this constitutes a definitive solution to the problem, and this is so not only because the contracting entity is involved in this problem but because other institutions like the Ministry of Finance, the DNCP itself, and banking, government, and private entities are as well, depending on which of them is the contracting party*”

[272] – **Budgetary availability for launching contracting processes.** “*This is a weakness primarily for municipal contracting. This is the case because this contracting is not linked to the SIAF, thus making it difficult to monitor the availability of funds electronically or to validate the Certificate of Budgetary Availability (CDP) at the time of publishing the call for tenders*”

[273] – **Difficulties related to Internet access.** “*Considering that government contracting announcements are posted mainly on the website of the National Department of Government Contracting and that Internet access is still sparse (PENETRATION RATE), although it has grown significantly, this is a matter that deserves a more careful look by the body that enforces the Law on Government Contracting*”

[274] – **Monitoring mechanisms that are not sufficiently proactive and preventive.** “*... The absence of timely monitoring leads to the conclusion of irregular contracts that are often irrevocable. This task will also entail the formulation of laws that make internal audits mandatory in every government institution and that require the audits to come under the AGPE. This will also require parliamentary action*”

[275] – **The annual timelines for revisions do not include procurement verifications, so that there is no effective control framework apart from the process controls exercised by the DNCP.**

[276] - **Lack of auditors specialized in contracting.**

[277] – **There is no training program on institutional internal audits and government audits.**

[278] – **Limitations in the public policy on combating corruption.**

[279] – **There are no rules of ethical conduct applicable to the parties involved in contracting processes (public servants, former public servants, and nongovernmental personnel).**

[280] In this regard, the Committee notes that the Consolidation Plan is a comprehensive program that includes the implementation of recommendations made pursuant to the observations and recommendations formulated in previous MESICIC rounds as well as the current one. Similarly, this program has indicators that make it possible to evaluate the percentage of implementation of the Consolidation Plan.

[281] The Committee takes note of the progress made by the State under review and deems it advisable for the State to take necessary measures to ensure that the Consolidation Plan is fully implemented and that the progress indicators are published periodically on the DNCP portal, so that the public may be made aware of the progress made and the State under review may identify challenges and adopt any necessary corrective measures (see recommendations 1.2.3.27 and 1.2.3.28 in Chapter II of this report).

[282] In addition, in relation to the matter of inadequate transparency in the government procurement system, the Committee notes that, during the on-site visit, the civil society organizations said that one of the difficulties they encountered was related to the practical interpretation of the use of funds under item 800, "Transfers," of the General Budget of the Nation (PGN), in that, if those resources were utilized for contracting with civil society for the execution of public works, the Law on Government Contracting did not apply, which meant that this type of contract was not subject to any oversight or verification. This was a problem that had been commented on in the media since 2010, and they said that a legal loophole continued to the present day.⁷⁹

[283] In this connection, the Committee deems it appropriate for the State under review to consider taking the necessary normative measures to ensure that Government contracting with civil society organizations is carried out pursuant to the Law on Government Contracting, with all the controls and means of verification to guarantee observance of the principles of openness, equity, and efficiency set out in the Convention. The Committee will formulate a recommendation to this effect (see recommendation 1.2.3.29 in section 1.2.3 of Chapter II of this report).

- **In relation to the data provided by the National Department of Government Contracting (DNCP) and the Office of the Attorney General of the Republic (PGR):**

[284] During the on-site visit, the DNCP representatives presented statistical data on results related to the government contracting system, noteworthy among which are the following:

PERCENTAGE OF CONTRACTS PER YEAR					
Methods	2010	2011	2012	2013	2014
Call for tenders	19%	18%	19%	20%	21%
Direct contracting	57%	56%	57%	56%	51%
Exception-based contracting	6%	6%	4%	5%	8%
International public bidding	0%	0%	0%	0%	1%
National public bidding	18%	19%	19%	18%	19%
Grand total	100%	100%	100%	100%	100%

[285] As concerns these statistical data, the Committee notes that the majority of contracting is still direct and that exception-based contracting has been on the rise. Accordingly, the Committee deems it advisable for the State under review to adopt the necessary measures to ensure the use of contracting methods based on calls for

⁷⁹ <http://www.abc.com.py/edicion-impres/politica/presupuesto-tiene-agujero-negro-de-g-74-billones-88572.html>.

tenders and public bidding to allow for free participation and transparent selection of contractors as a general rule in government procurement of goods and services, in keeping with the principles of openness, equity, and efficiency set out in the Convention. The Committee will formulate a recommendation to this effect (see recommendation 1.2.3.30 in section 1.2.3 of Chapter II of this report).

[286] The Committee takes note of the data provided by the DNCP in relation to sanctions imposed on contractors:

Providers sanctioned by the DNCP

Types of sanctions	2009	2010	2011	2012	2013	2014
Admonitions	10	16	24	13	24	14
Disqualifications	30	51	22	39	41	56

[287] The Committee takes note of the data provided in the statistical table above. However, it is not possible to determine the authority that imposed these sanctions; whether they were handled by administrative, criminal, or other types of bodies, such as arbitration tribunals; or whether the State was ordered to make payments as a result of claims against it in connection with contractual activity⁸⁰.

[288] During the on-site visit, the representatives of the Office of the Attorney General of the Republic, who are responsible for representing the State before the competent courts, indicated that they did not have any records or statistics and that considerable legal chaos existed which led them to take drastic measures, especially considering that the claims had an impact on the foreign debt.

[289] Thus, among their difficulties they noted the absence of an organic charter to establish the scope of the PGR's future actions. They added that the absence of such regulations has led to such situations as the judicial institutions communicating as best they saw fit, which posed a challenge for the collection of statistical data⁸¹.

[290] Accordingly, they promoted Decree 211/2013, *whereby all ministries, executive secretariats, and other administrative bodies and entities associated with the executive branch are obliged to refer to the Office of the Attorney General all claims against them and the Paraguayan State and to submit to said office's control and procedural guidance.*⁸² Consequently, the only reliable data would be data collected as of 2014, which would make an overall assessment of results impossible. In addition, under this system, all legal cases, whether

⁸⁰ In its comments document on the draft preliminary report, the State under review indicated the following: "The information provided on the table refers to sanctions imposed by the DNCP on state providers under Art. 72 of Law No. 2051/03 on Public Procurement (LCP):

CHAPTER ONE – SANCTIONS FOR SUPPLIERS AND CONTRACTORS – Article 72. ADMINISTRATIVE SANCTION

The National Department of Government Contracting (DNCP) may temporarily disqualify suppliers and contractors from participating in procurement procedures or from entering into contracts governed by this law, for a period of between three months and three years, by means of a resolution published in the official gazette and on the Public Procurement Information System (SICP), when:

(a) the suppliers or contractors are in the situation described in Article 40(c) of this law with respect to two or more agencies, entities, or municipalities;

(b) the suppliers or contractors fail to meet their contractual obligations for reasons attributable to them and, as a consequence, inflict harm or damage on the agency, entity, or municipality in question; and,

(c) the suppliers or contractors provide false information or act maliciously or in bad faith in a contracting procedure, in entering into or executing a contract, or in presenting or discharging a reconciliation procedure or a complaint.

Within ten calendar days following the date on which they become aware of any breach of the terms of this law, the Operational Contracting Units (UOCs) shall convey the documents establishing the facts that allegedly constitute the breach to the National Department of Government Contracting (DNCP), for that Department to act in accordance with its competence.

In addition to suppliers and contractors, bidders participating in requests for tender who incur in any of the situations described in this article shall be subject to the sanctions that it establishes.

In particularly minor cases, the applicable sanction shall be an admonishment and written warning for the bidder, supplier, or contractor.

⁸¹ http://www.oas.org/juridico/PDFs/mesicic5_pry_proc_res_mesicic.pdf

⁸² <http://www.eljurista.com.py/admin/publics/upload/archivos/49f84f680caf4e68a2999e11ba2bdd9d.pdf>

government contracting or any other cases, are put into just one basket, and the only discernible information is the amount of money the Paraguayan State saves when it wins cases.

[291] In this connection, the Committee takes note of the difficulties identified by the State under review and of the need for it to take normative measures aimed at equipping the Office of the Attorney General with an Organic Charter to establish the scope of its actions so that it can perform its duties in full, as well as to provide said institution with the necessary human and budgetary resources to carry out its functions properly and to keep statistics on the results of its activities (see recommendations 1.2.3.31 and 1.2.3.32 in Chapter II of this report).

1.2.3. Recommendations

[292] In view of the considerations expressed in sections 1.2.1 and 1.2.2, the Committee suggests that the State under review consider the following recommendations:

- 1.2.3.1.** That the appropriate authority adopt regulations on the hypothetical circumstances listed in subsections (b), (d), (e), f), and (h) of Article 33 of the Law on Government Contracting (Law 2051/2003), bearing in mind the regulations on subsections a), c) and g) in Articles 69 to 74 of the Regulations on the Law on Government Contracting (Regulatory Decree 21909/2003). (See paragraphs 151 to 154 of section 1.2.1. of Chapter II of this report).
- 1.2.3.2.** Publish the instruction to verify the requirements for bidders and the public servants involved to initiate an exception procedure on the institutional portal of the National Department of Government Contracting (DNCP). (See paragraphs 151 to 154 of section 1.2.1. of Chapter II of this report).
- 1.2.3.3.** Consider taking appropriate legislative measures to regulate the structure of the UOCs, including, among other things, suitable standards of professionalism for the public servants that make them up. (See paragraphs 155 to 165 of section 1.2.1. of Chapter II of this report).
- 1.2.3.4.** Strengthen the governing bodies of the Government Procurement System, in particular the DNCP and the Procurement Operations Units (UOCs), with respect to the functions they carry out in connection with the administration and control of the system, providing them with the necessary human and budgetary resources to carry out their functions properly, within available resources. (See paragraphs 166 to 168 of section 1.2.1. of Chapter II of this report).
- 1.2.3.5.** Establish, where appropriate, mechanisms for interagency coordination of the actions of the governing bodies of the Government Contracting System, as well as ongoing evaluation and monitoring of those bodies. (See paragraphs 166 to 168 of section 1.2.1. of Chapter II of this report).
- 1.2.3.6.** Develop and implement a system of sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the Law on Government Contracting (Law 2051/2003) and its Regulations (Regulatory Decree 21909/2003). (See paragraphs 169 to 174 of section 1.2.1. of Chapter II of this report).
- 1.2.3.7.** Develop and implement provisions for the selection of an authority to carry out the tasks of audit, control, and monitoring of contracts where the amount or particular level of complexity so warrant, providing said authority with the necessary resources to carry out its functions properly, within available resources. (See paragraphs 175 to 177 of section 1.2.1. of Chapter II of this report).

- 1.2.3.8.** Take any necessary measures to strengthen the Contract Verification Unit, and provide it with the human and budgetary resources needed for it to carry out its functions properly, within available resources. (See paragraphs 175 to 177 of section 1.2.1. of Chapter II of this report).
- 1.2.3.9.** Create qualified citizen oversight mechanisms to monitor the pre-contractual phase and the execution of government contracts where the nature, importance or magnitude so warrants. (See paragraphs 178 to 182 of section 1.2.1. of Chapter II of this report).
- 1.2.3.10.** Develop, implement, and publicize mechanisms or systems for the rendering of periodic accounts both by suppliers and contractors and by persons or entities directly responsible for supervision, control, and oversight of contracts. (See paragraphs 183 to 187 of section 1.2.1. of Chapter II of this report).
- 1.2.3.11.** Consider development and implementation of provisions on supervening circumstances which would justify amendments to a public works contract, including cases in which the State or the contractor might be entitled to compensation, without prejudice to Article 62 of the Law on Government Contracting (Law 2051/2003). (See paragraphs 193 to 196 of section 1.2.1. of Chapter II of this report).
- 1.2.3.12.** Consider development and implementation of comprehensive citizen oversight mechanisms that cover all the different stages of public works procurement procedures, without prejudice to existing internal or external institutional controls. (See paragraphs 197 to 201 of section 1.2.1. of Chapter II of this report).
- 1.2.3.13.** Publish on the DNCP portal the institution's audit reports, as well as its annual work plan, schedule of activities, institutional risk identification, and institutional risk management plan, in an easily accessible, user-friendly format. (See paragraphs 202 to 210 of section 1.2.1. of Chapter II of this report). (See section 1.2.1. of Chapter II of this report).
- 1.2.3.14.** Publish the 2013 Evaluation of the National Government Contracting System of Paraguay, drawn up by the DNCP, with assistance from the IDB and the World Bank (WB), which is the result of a process initiated in 2003 and continued in 2007 and which contains recommendations and a suggested plan of action for strengthening the system. (See paragraphs 211 to 213 of section 1.2.1. of Chapter II of this report).
- 1.2.3.15.** Consider taking appropriate normative measures to ensure the existence of mandatory criteria for qualifying the legal capacity of bidders in connection with all the prohibitions covered in the Civil Service Law. (See paragraphs 221 to 227 of section 1.2.2. of Chapter II of this report).
- 1.2.3.16.** Consider taking appropriate normative measures to regulate the constitution, duration, and operations of the Evaluation Committees. (See paragraphs 228 to 229 of section 1.2.2. of Chapter II of this report).
- 1.2.3.17.** Publish Resolution DNCP 849/2015 on the DNCP Portal by means of an easily identifiable link on its web page, in order to comply with the terms of the aforementioned Article 2 of said resolution and make the resolution publicly accessible. (See paragraphs 188 to 192 of section 1.2.1., as well as paragraphs 230 to 231 of section 1.2.2 of Chapter II of this report).

- 1.2.3.18.** Take the necessary means to strengthen interagency coordination and data cross-checking, where appropriate, so that the SFP may have complete, updated data on the payrolls of all public servants of the institutions under its authority in order to perform an effective verification of possible conflicts of interest in government contracting processes. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 245 to 246 of section 1.2.2 of Chapter II of this report).
- 1.2.3.19.** Publish the normative framework of the government contracting system on the institutional portal of the DNCP in a user-friendly format that will enable easy public access to this information. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 249 to 250 of section 1.2.2 of Chapter II of this report).
- 1.2.3.20.** Modify the institutional portal of the DNCP, utilizing a user-friendly format, so that filters may be used and comparisons made at all stages of government contracting, including follow-up of contract execution by supplier and by contract, so that the public may follow up on these processes. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 251 to 243 of section 1.2.2 of Chapter II of this report).
- 1.2.3.21.** Ensure that contracting units receive timely notification alerts concerning rescinded contracts, especially in cases of recidivist contractors and suppliers. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 255 to 256 of section 1.2.2 of Chapter II of this report).
- 1.2.3.22.** Publish the historical records of suspended contractors on the institutional Internet portal, to allow for any corresponding follow-up. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 255 to 256 of section 1.2.2 of Chapter II of this report).
- 1.2.3.23.** Develop the electronic terms and conditions and tender documents for the Framework Agreements. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 257 to 260 of section 1.2.2 of Chapter II of this report).
- 1.2.3.24.** Standardize reference prices for the procurement and adjudication of generic or ordinary goods, as well as technical specifications and the request for documentation to be presented by bidders in diverse categories. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraph 261 of section 1.2.2 of Chapter II of this report).
- 1.2.3.25.** Take appropriate measures to ensure that individuals who do not yet have Internet access may continue to submit their complaints and protests. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 262 to 263 of section 1.2.2 of Chapter II of this report).
- 1.2.3.26.** Keep statistical data on the results of the implementation of this new electronic protest system, which will indicate how many protests have been received each year, the nature of those protests, how many were solved, how they were solved, and how long it took to solve them, with a view to identifying challenges and implementing any necessary corrective measures. (See paragraphs 188 to 192 of section 1.2.1. as well as paragraphs 262 to 263 of section 1.2.2 of Chapter II of this report).
- 1.2.3.27.** Implement fully the Consolidation Plan resulting from the 2013 Evaluation of the National Government Contracting System of Paraguay, drawn up by the DNCP with support from IDB. (See paragraphs 214 to 215 of section 1.2.1. as well as paragraphs 265 to 281 of section 1.2.2 of Chapter II of this report).

- 1.2.3.28.** Publish periodically on the institutional portal of the DNCP statistical data and other relevant information on implementation of the Consolidation Plan resulting from the 2013 Evaluation of the National Government Contracting System of Paraguay, drawn up by the DNCP with support from IDB, so that the public may be made aware of the progress of implementation, thus making it possible to identify challenges and adopt any necessary corrective measures. (See paragraphs 214 to 215 of section 1.2.1., as well as paragraphs 265 to 281 of section 1.2.2 of Chapter II of this report).
- 1.2.3.29.** Consider taking the necessary legislative measures to ensure that government contracting with civil society organizations is consistent with the Law on Government Contracting, with all controls and means of verification to guarantee observance of the principles of openness, equity, and efficiency set out in the Convention (See paragraphs 282 to 283 of section 1.2.2 of Chapter II of this report).
- 1.2.3.30.** Adopt the necessary measures to ensure the use of contracting methods based on calls for tenders and public bidding to allow for free participation and transparent selection of contractors as a general rule in government procurement of goods and services, in keeping with the principles of openness, equity, and efficiency set out in the Convention. (See paragraphs 284 to 285 of section 1.2.2 of Chapter II of this report).
- 1.2.3.31.** Consider taking legislative measures to equip the Office of the Attorney General of the Republic (PGR) with an Organic Charter to establish the scope of its actions so that it can perform its duties in full. (See paragraphs 286 to 291 of section 1.2.2 of Chapter II of this report).
- 1.2.3.32.** Strengthen the PGR by providing it with human and budgetary resources to ensure that it carries out its functions properly and is able to keep statistics on the results of its activities, within available resources. (See paragraphs 286 to 291 of section 1.2.2 of Chapter II of this report).

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

2.1 Follow-Up on the Implementation of the Recommendations Formulated in the Second Round

Recommendation 2.1.

Strengthen systems for protecting public servants and private citizens who, in good faith, report acts of corruption.

Measure suggested by the Committee as requiring additional attention:

- Adopt, through the appropriate authority, comprehensive regulations on protection of public servants and private citizens who in good faith report acts of corruption, including protection of their identity, in accordance with its Constitution and with the fundamental principles of its domestic system of laws, which could include, inter alia, the following aspects:

- Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings;*
- Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers;*

- *Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption;*
- *Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it;*
- *Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens;*
- *Mechanisms to facilitate international cooperation on the foregoing matters, as appropriate.*

[293] Both in its response to the questionnaire⁸³ and during the on-site visit, the State under review presented information on the preceding measure, among which the Committee highlights the following as steps contributing to progress in its implementation:

[294] Law 4083/2011, “Which establishes the Program of Support and Protection of Witnesses and Victims in Criminal Proceedings,”⁸⁴ directed at witnesses, victims, justice collaborators, and other people involved in criminal proceedings whose lives, physical integrity, freedom, or security may be at extreme or particular risk because of their involvement in criminal proceedings being handled by the Public Prosecution Service.

[295] Draft amendment to Law 4083/11, which seeks to bring the law into line with international standards and national reality.

[296] *“In the framework of the policies of the Office of the Prosecutor General of the State to combat corruption and impunity, management has made plans to create a software program (now under development) to identify whistleblowers who are at risk, to be used in cases of public servants and citizens who report these punishable acts”*

[297] The directives of Instruction FGE 7/2014, which defines the criteria for intervention by public prosecutors in the area of ordinary protection of witnesses established in the national system of laws, with the exception of identity concealment, which is not permitted under criminal law.⁸⁵

[298] Creation of the Witness Protection Department (DPT) within the Public Prosecution Service.

[299] Cooperation with the Office of the General Prosecutor of the Nation (FGN) – Colombia (OPA) and the Office of the General Prosecutor (FG) – Costa Rica (OAPVD).

[300] The Committee takes note of the steps taken by the State under review in implementing the preceding recommendation and of the need to continue paying attention to its implementation, for the reasons given below (see recommendation 2.3.1 in section 2.3 of Chapter II of this report).

[301] First, the Committee notes that Law 4083/2011, “Which establishes the Program of Support and Protection of Witnesses and Victims in Criminal Proceedings,” constitutes a step forward toward implementation of the

⁸³ Response of Paraguay to the questionnaire for the Fourth Round, pp. 35-37.

⁸⁴ http://www.oas.org/juridico/PDFs/mesicic5_pry_ins_fge_7.pdf.

⁸⁵ http://www.oas.org/juridico/PDFs/mesicic5_pry_ins_fge_7.pdf.

preceding recommendation. However, although it may be used in cases of corruption whistleblowers, it is not intended to address these cases specifically, nor does it deal with protection for persons who report acts of corruption that might be subject to investigation in administrative proceedings.

[302] Second, as concerns protection of the identity of corruption whistleblowers, the Committee notes that, as early as the Fourth Round, the representatives of the MP had said that “*that to ensure that the above law could be effectively and efficiently enforced it would be necessary also to provide funds and staff; amend the Criminal Code, given that it does not permit the concealment [of] witnesses; introduce implementing regulations for Law 4083/2011; and amend the said Law 4083/2011 in view of its weaknesses,*” and that, despite the foregoing, efforts had been made to protect whistleblowers and witnesses as much as possible with the jurisdictional instruments in place.⁸⁶

[303] In this regard, the Committee notes that, during the on-site visit, the MP representatives said that the situation had not changed and no amendments whatsoever had been made to the Criminal Code, no implementing regulations had been introduced or amendments made regarding Law 4083/2011, and no necessary human and budgetary resources had been provided for the effective implementation of the Program; there had even been “*Cuts in the budget items required by the Program in the Legislature’s review of the General Budget of Expenses.*”

[304] In this regard, they reported that one Plan in the Witness Protection Program approved by Resolution F.G.E. No. 3756 of August 5, 2015 had been implemented, namely the one according priority to protection in organized crime cases (drug trafficking, human trafficking, terrorism, kidnapping, and corruption), and that this plan would be gradually and progressively implemented by stages, depending on the budgetary resources available. Even so, they added, the lack of funding precluded continuing with the program or expanding it to cover other cases, including people reporting acts of corruption.

[305] The Committee also notes that, although the State under review pointed out among its advances the creation of the Witness Protection Department, the MP representatives reported that said body did not have sufficient resources to properly carry out its functions of victim, witness, and whistleblower protection.

[306] In light of the above, the Committee deems it advisable for the State under review to provide the MP with the necessary human and budgetary resources, within available resources, to make it possible to effectively implement the Program of Support and Protection of Witnesses and Victims in Criminal Proceedings as well as to strengthen the Witness Protection Department. The Committee will formulate a recommendation to this effect (see recommendation 2.3.2 in section 2.3 of Chapter II of this report).

[307] By the same token, the Committee notes that the MP representatives also indicated that in 2013 they had submitted a draft amended version of Law 4083/2011, with a view to bringing it into line with international standards and national reality. However, they pointed out as a difficulty the “*Delay in the adoption of the draft amendment or abrogation of Law 4083/11*” by the legislative branch. Accordingly, the Committee deems it advisable for the State under review to consider taking the appropriate legislative measures to bring the existing law into line with international standards and to adopt implementing regulations for it, for which it could consider the criteria established in the “*Model Law on the Declaration of Interests, Income, Assets and Liabilities of Persons Performing Public Functions,*” which is available on the Anti-Corruption Portal of the Americas,⁸⁷. The Committee will formulate a recommendation to this effect (see recommendation 2.3.3 in section 2.3 of Chapter II of this report).

⁸⁶ Report of Paraguay on the Fourth Round, p. 46.

⁸⁷ http://www.oas.org/juridico/PDFs/model_law_reporting.pdf

[308] It bears mentioning that, on that occasion, the representatives of the civil society organization “Judicial Studies Center” [*Centro de Estudios Judiciales – CEJ*] said that “[t]he Paraguayan Government has not taken any measure to allow for anonymous reporting, nor has any headway been made in relation to policies to protect whistleblowers outside the criminal sphere; in Paraguay we have two institutions that can be considered best practice models for whistleblowing [the CGR and the DNCP], but we regret that these practices have not been replicated in other government institutions.”

[309] Along the same lines, the representatives of the CEJ also said on that occasion that⁸⁸ “[t]here is no institutional mechanism for reporting any threats, intimidation, or reprisals against public servants who report acts of public corruption. The means used most frequently is the press, which gives coverage to said corruption reports.”

[310] In addition, the Committee notes that on the same occasion the representatives of the Civil Service Secretariat (SFP) also pointed out that not even 5% of cases of government corruption were reported in Paraguay, in large part because public servants are not afforded protection and because there is a widespread fear of reporting these acts because of the real possibility that this might lead to the public servants’ dismissal. This situation is exacerbated by the fact that the career service system has not yet been established in the civil service, which results in an absence of job stability and of labor protection guarantees for public servants. They added that the SFP did not currently have the power to oblige a supreme authority to investigate a corruption report or initiate an administrative inquiry, nor did it have the resources to be involved in whistleblower protection.

[311] In this respect, the Committee would like to point out that the recommendations formulated to the State under review concerning implementation of the government career service system in Paraguay are still in effect and therefore it reiterates them. This notwithstanding, the Committee deems it advisable for the State under review to provide the SFP with the necessary human and budgetary resources to become involved in the protection of corruption whistleblowers, and it will formulate a recommendation to this effect (see recommendation 2.3.4 in section 2.3 of Chapter II of this report).

[312] Likewise, it bears mentioning that, during the on-site visit, the representatives of the civil society organization “Judicial Studies Center (CEJ)” said: “*There is no policy to protect whistleblowers in administrative proceedings. The Paraguayan State has not created any mechanisms for encouraging reporting by citizens; rather honest citizens who wish to come forward do not find the means or the opportunity to do so. No headway has been made in whistleblower protection. This hinders and restricts the resolve of public servants who want to report their superiors; on the contrary, a policy exists to go after public servants who dare to do so.*”

[313] Fourth, the Committee notes that, during the on-site visit, the MP representatives identified as one of their difficulties the shortage of resources for training and for the dissemination of Law 4083/2011, because it was very little known and also because of the “[l]ack of interest of other public or private institutions in collaborating or cooperating in protection measures.”

[314] Accordingly, the Committee deems it appropriate for the State under review to provide the MP with the necessary human and budgetary resources, within available resources, to disseminate Law 4083/2011 among the public as well as among justice officials and other government bodies and entities. The Committee will formulate a recommendation to this effect (see recommendation 2.3.5 in section 2.3 of Chapter II of this report).

⁸⁸ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

[315] In fact, during the on-site visit, the representatives of the civil society organization CEJ said that Law 4083/2011 was not widely disseminated and that the public was unaware of it, which in a sense limited its objectives, given that this dissemination would help generate public confidence and result in increased collaboration with the Office of the Public Prosecutor. In addition, they said the witness protection *is not considered a government policy that requires concerted efforts on the part of institutions involved in the prevention and investigation of punishable acts* and that *there are no campaigns for or dissemination of the Program that would help generate citizen confidence*.

[316] Finally, the Committee notes that, during the on-site visit, the representatives of the MP identified the following among its technical cooperation needs:⁸⁹

[317] - Technical assistance to develop the structure and modus operandi of the Witness Protection Program and specifically to establish administrative/financial procedures for the Protection Program.

[318] – Advisory services for the validation of regulations, processes, documentation, etc.

[319] – Technical assistance for strengthening the legal basis of the law related to witness protection, for conducting a doctrinal study on the Protection Program and its concepts, for selecting court judgments of countries with laws similar to Paraguay's, for extracting rules to interpret concepts related to protective measures and their scope; and for extracting problems of a constitutional or legal nature and pointing to contradictions.

[320] – Specialized human talent training (management technicians) in intelligence and counter-intelligence, special investigation techniques, the use of ICT tools, assessment of the testimony of protected individuals, assistance in technical legislative matters, witness questioning and monitoring techniques, risk assessment analysis, etc.

[321] In this regard, the Committee takes note of the needs expressed by the MP and of the need for the State under review to provide it with the necessary support; and it invites the States Parties, especially their public prosecutor's offices, to help the MP in these areas. The Committee will formulate a recommendation to this effect (see recommendation 1.3.1.5 in Chapter II of this report).

2.2 New Developments with Respect to the Provision of the Convention on Systems for Protecting Public Servants and Private Citizens Who, in Good Faith, Report Acts of Corruption

2.2.1 Developments with respect to the legal framework

a) Scope

[322] Law 4083/2011, “Which establishes the Program of Support and Protection of Witnesses and Victims in Criminal Proceedings,”⁹⁰ directed at witnesses, victims, justice collaborators, and other people involved in criminal proceedings whose lives, physical integrity, freedom, or security may be at extreme or particular risk because of their involvement in criminal proceedings being handled by the Public Prosecution Service.

[323] Draft amendment to Law 4083/11, which seeks to bring the law into line with international standards and national reality.

⁸⁹ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

⁹⁰ http://www.oas.org/juridico/PDFs/mesicic5_pry_ins_fge_7.pdf.

b) Observations

[324] As concerns Law 4083/2011, “Which creates the Program of Support and Protection of Witnesses and Victims in Criminal Proceedings” and its draft amendment that was submitted to Congress in 2013 and seeks to bring the law into line with international standards and national reality, the Committee takes note of the difficulties identified by the MP representatives regarding delays in its adoption by the Legislature. The Committee has already commented on this matter in section 2.1 above and has formulated a recommendation to this effect (see recommendation 2.3.3 in Chapter II of this report).

2.3 Recommendations

[325] In view of the comments made in sections 2.1 and 2.2 in Chapter II of this report, the Committee suggests that the State under review consider the following recommendations:

2.3.1 Adopt, through the appropriate authority, comprehensive regulations on protection of public servants and private citizens who in good faith report acts of corruption, including protection of their identity, in accordance with its Constitution and with the fundamental principles of its domestic system of laws, which could include, inter alia, the following aspects: (See paragraphs 293 to 300 of section 2.1 of Chapter II of this report).

- Protection for persons who report acts of corruption subject to investigation in administrative or judicial proceedings;
- Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers;
- Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption;
- Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it;
- Witness protection mechanisms that offer witnesses the same guarantees as public servants and private citizens;
- Mechanisms to facilitate international cooperation on the foregoing matters, as appropriate.

2.3.2 Strengthen the Public Prosecution Service, especially its Witness Protection Department, by providing it with the necessary human and budgetary resources to properly perform its functions of effectively protecting witnesses and whistleblowers, including those who report acts of corruption. (See paragraphs 301 to 306 of section 2.1 of Chapter II of this report).

2.3.3 Consider taking appropriate legislative measures to bring Law 4083/2011 into line with international standards and adopt implementing regulations for it, bearing in mind the criteria established in the “*Model Law to facilitate and encourage the reporting of acts of corruption and to protect whistleblowers and*

witnesses,” which is available on the Anti-Corruption Portal of the Americas. (See paragraph 307 of section 2.1 of Chapter II of this report).

- 2.3.4 Strengthen the Civil Service Secretariat, providing it with the necessary human and budgetary resources to enable it to work in the area of protection of persons who report acts of corruption in investigations in administrative proceedings. (See paragraphs 308 to 312 of section 2.1 of Chapter II of this report).
- 2.3.5 Take the necessary steps to enter into agreements with other states and cooperation organizations to provide the MP with the technical assistance needed to establish the structure and modus operandi of the Witness Protection Program; to validate regulations, processes, documentation, etc.; to strengthen the legal basis of Law 4083/2011 and related matters; and to provide specialized training to staff responsible for implementing Law 4083/2011, so that they may perform their functions more effectively (see paragraphs 313 to 321, of section 2.1, as well as paragraph 324 of section 2.2 in Chapter II of this report).

3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

3.1. Follow-Up on Implementation of the Recommendations Formulated in the Second Round

Recommendation 3.1.

That the Judicial Branch and the Public Prosecution Service select and develop procedures and indicators, when appropriate and where they do not presently exist, to analyze the results of the systems, standards, measures and mechanisms considered in section 3 of this report.

[326] In its response to the questionnaire,⁹¹ the State under review presented information on the preceding measure, among which the Committee highlights the following as a step forward:

[327] *“...With regard to statistical data on acts of corruption, the Judicial Branch, after approving the Law on Access to Public Information, began to work on compiling judgments of all types to make them accessible to the general public. The work began with judgments of all types of courts in all jurisdictions rendered in the first quarter of 2015 in the capital and will continue later on with the compilation of data on judgments from previous years and from the country as a whole. Exclusive information in this regard is not available on specific cases of corruption, although the statistical database has a web search engine (www.csj.gov.py/publicaciones), developed by the Judicial Statistics Directorate, where data can be found on all punishable acts and on their number, which in turn can be filtered according to what is specified by the person doing the search, including acts that can be considered acts of corruption.”*

[328] Furthermore, the Committee notes that the State under review did not provide any information in its response on the results regarding the Public Prosecution Service.

[329] In this connection, the Committee would like to point out that in the Fourth Round, in which an in-depth analysis was made of the oversight bodies, including the Judicial Branch and the Public Prosecution Service, a detailed review was conducted and specific recommendations were formulated concerning the statistical data and indicators that these bodies should record in connection with their functions to sanction and investigate acts of corruption.⁹² For this reason, the Committee endorses the contents of the Report of Paraguay on the Fourth Round and therefore considers that this recommendation is redundant.

⁹¹ Response of Paraguay to the questionnaire for the Fourth Round, pp. 35-37.

⁹² See recommendations 1.4.16, 1.4.17, 1.5.16, and 1.5.17, Report of Paraguay on the Fourth Round of Review.

[330] Notwithstanding the above, the Committee notes that, during the on-site visit, the representatives of the Judicial Branch said that one of the difficulties they encountered in keeping disaggregated, detailed statistics on their function of sanctioning acts of corruption was the absence of a software tool enabling them to rapidly extract data. In fact, they explained that the major difficulty was that, although they had a database, into which the courts entered data, the system was old-fashioned and it was not possible to extract information to find data that corresponded to queries. They added that they were close to full implementation of the Electronic Judicial File, but that the systems were not compatible and the present one would have to be updated to bring it into line with the new electronic file system.

[331] In this connection, they said that they did not have the necessary resources for modernization in the current year and that everything had to be done manually in the Statistics Directorate. In this regard, the Committee deems it appropriate for the State under review to provide the necessary human, technological, and budgetary resources, within available resources, in order to modernize the computer system of the Statistics Directorate so that it is possible to extract data and use filters as well as to keep statistics on the punishment of acts of corruption by the Judicial Branch. The Committee will formulate a recommendation to this effect (see recommendation 3.2.1 in section 3.2 Chapter II of this report).

[332] Moreover, the Committee points out that, during the on-site visit, the representatives of the Office of Judicial Ethics reported that in cases of internal disciplinary proceedings, there was no obligation to notify the Public Prosecution Service of those cases in which there were indications of punishable acts related to possible acts of corruption. The Committee will formulate a recommendation to this effect (see recommendation 3.2.1 in section 3.2 of Chapter II of this report).

3.2. Recommendations

[333] In view of the comments made in section 3.1 in Chapter II of this report, the Committee suggests that the State under review consider the following recommendations:

- 3.2.1. Provide the Judicial Branch with the necessary human, technological, and budgetary resources, within available resources, to modernize the computer system of the Statistics Directorate so that it is possible to extract data and use filters as well as to keep statistics on the punishment of acts of corruption by the Judicial Branch (see paragraphs 328 to 331 of section 3.1 in Chapter II of this report).
- 3.2.2. Establish the obligation of the Judicial Branch to notify the MP of internal disciplinary cases in which there are indications of punishable acts related to possible acts of corruption (see paragraph 332 of section 3.1 in Chapter II of this report).

4. GENERAL RECOMMENDATIONS

Recommendation 4.1, suggested by the Committee that requires additional attention

Design and implement, when appropriate, training programs for public servants responsible for managing and implementing the systems, standards, measures, and mechanisms considered in this report, for the purpose of guaranteeing that they are adequately understood, managed, and implemented.

[334] Taking into account that, in sections 1, 2, and 3 of Chapter II of this report, an updated, detailed analysis was made of follow-up on the recommendations formulated to the Republic of Paraguay in the Second Round, as

well as of the systems, standards, measures, and mechanisms referred to in the suggested recommendation, the Committee endorses the contents of those sections and therefore considers that this recommendation is redundant.

Recommendation 4.2. suggested by the Committee that requires additional attention

Select and develop procedures and indicators, when appropriate and where they do not presently exist, to analyze the results of the systems, standards, measures, and mechanisms considered in this report, and to follow-up on the recommendations made herein.

[335] The State did not refer to specific measures to implement the preceding measure either in its response to the questionnaire or during the on-site visit. The Committee therefore reiterates that additional attention must be paid to the implementation of said measure.

[336] Nonetheless, taking into account that, in sections 1, 2, and 3 of Chapter II of this report, an updated, detailed analysis was made of follow-up on the recommendations formulated to the Republic of Paraguay in the Second Round, as well as of the systems, standards, measures, and mechanisms referred to in the suggested recommendation, the Committee endorses the contents of those sections and therefore considers that this recommendation is redundant.

III. ANALYSIS, CONCLUSIONS, AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISIONS SELECTED FOR THE FIFTH ROUND

1. INSTRUCTIONS TO GOVERNMENT PERSONNEL TO ENSURE PROPER UNDERSTANDING OF THEIR RESPONSIBILITIES AND THE ETHICAL RULES GOVERNING THEIR ACTIVITIES (ARTICLE III, PARAGRAPH 3, OF THE CONVENTION)

[337] In keeping with the *Methodology* agreed to by the Committee for its review of the provision selected for the Fifth Round set out in Article III, paragraph 3, of the Convention on measures to create, maintain, and strengthen “*instruction[s] to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities,*” the State under review selected the Civil Service Secretariat (SFP), the Public Prosecution Service (MP), and the Judicial Branch (PJ), as it considers that they stand out for their implementation of programs related to this topic.

[338] A brief description follows of the three public entities selected by the Republic of Paraguay for review in this section:

[339] – The Civil Service Secretariat (SFP): The SFP is a central regulatory agency for the civil service and the institutional development of government entities under the Office of the President of the Republic; it is responsible for monitoring enforcement of Law 1626/00 “On the Civil Service” (LFP) and for promoting the objectives of the civil service through ethical rules. Its functions include formulating policy for the management and development of public sector employees; proposing the job classification and description system for positions in government bodies and agencies; approving internal regulations and collective contracts on working conditions in government bodies and agencies; approving draft regulations for the selection, admission, classification, and promotion of government personnel presented by the diverse public entities; and appointing examining magistrates for administrative proceedings.

[340] – The Public Prosecution Service (MP): The MP is a constitutional body, with functional and administrative autonomy, that represents society in judicial bodies; safeguards the observance of constitutional

rights and guarantees; institutes criminal proceedings in behalf of the State to protect public and community property, the environment, and other broad interests, as well as the rights of indigenous peoples; and takes legal action in cases where the request of a party is not necessary for it to be brought or continued.

[341] – Judiciary/Supreme Court of Justice (CSJ): The CSJ is the judicial branch of government; it is responsible for resolving disputes placed before it, and its jurisdiction covers the entire nation and includes cases involving acts of corruption. It issues its judgments in the form of final resolutions. It is also responsible for overseeing and issuing rulings on public spending by the OEE, through the Court of Auditors, which hears contentious-administrative disputes.

1.1. Existence and provisions of a legal framework and/or other measures

[342] The Republic of Paraguay has a set of provisions and/or measures designed to give instruction[s] to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, noteworthy among which are the following:

- Constitutional, statutory, and other legal provisions, applicable to a majority of employees of the public entities, of which special mention should be made of the following:

[343] Law 1626/2000 (Civil Service Law), Article 96 of which establishes as functions of the Civil Service Secretariat: “*Determining government personnel training needs and establishing necessary training programs to meet them.*”

[344] Article 49 (m) of Law 1626/2000 provides that government personnel shall be entitled to “*training in order to better perform their work.*”

[345] Article 57 (n) of Law 1626/2000 establishes “*in-service training*” as one of the obligations of government personnel.

[346] Decree 17.443/2002, which created the National Public Administration Institute of Paraguay (INAPP),⁹³ under the SFP, whose objective is to design and implement nondiscriminatory training policies in the public sector. Its training activities seek to develop the skills of government personnel in order to enhance the efficient and transparent operations of public institutions.

[347] Decree 10.143/2013, “*Which approves the Code of Ethics of the Executive Branch whereby an ethical management system is established on the basis of values and standards that should govern and guide the conduct of public officials and servants,*” which governs and guides the conduct of public officials and servants and stipulates the mandatory use of certain institutional instruments and entities to monitor and guarantee compliance with the ethical rules.

[348] Resolution N° 72/2013 approves the Code of Ethics of the Civil Service Secretariat.

[349] As concerns the manner in which personnel are informed of their responsibilities and functions, the State under review indicates in its response that this is done verbally and in writing, through a memorandum issued by the Directorate for Human Management and Development, which is posted on the internal virtual platform of the SFP and is also located in a photographic memory of the institution, which contains a record of all its meetings and training sessions.

⁹³ http://www.oas.org/juridico/spanish/mesicic5_pry.htm

[350] With respect to the occasion(s) when personnel are informed of their responsibilities and functions, the State under review reported in its response that this is done when personnel assume their posts and again every year when the posts are confirmed, which is carried out by resolution of the highest institutional authority; it is also done in cases of internal job transfers.

[351] As regards the existence of induction, training, or instructional programs and courses for personnel on how to perform their responsibilities and functions properly and, particularly, for making them aware of the risks of corruption inherent in the performance of those functions, the State under review notes in its response that the institution has an induction and re-induction program in which personnel are given copies of both Law 1626/00 “On the Civil Service” and the Internal Regulations and are informed of the functions they will perform, with special attention paid to the risk of committing all of the infractions contained in the law. The State also indicates that, following the Performance Evaluation (in the SFP, two were conducted in fiscal year 2014), an Improvement Plan is issued (according to the results and the needs identified), which includes necessary corrective measures, which generally involve re-induction processes.

[352] As for the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the State under review mentions in its response that communication takes place through internal virtual platforms, i.e., the intranet (approved for mandatory use by Resolution SFP 342/2015), internal messaging (spark), institutional mail, and the web page (www.sfp.gov.py).

[353] As concerns the existence of bodies to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly, the State under review indicates in its response that personnel can resort to their immediate supervisors and/or to the Human Management and Development Units.

[354] With regard to the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of their responsibilities and functions, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review points out in its response that this responsibility within the institutions lies with the immediate supervisor, the Area Director, and the Director General of the Area, in accordance with legal provisions in effect, and that in Paraguay the governing body for human resource policy in the public sector is the SFP, as established in Articles 93 and 96 (a) of Law 1626/00.

[355] As concerns the way in which personnel are informed of the ethical rules governing their activities, indicating whether this is done verbally or in writing and whether records are kept of those instructions, the State under review points out in its response that this is done verbally, in writing, and electronically, through formal appointment documents, memoranda, etc.

[356] With respect to the occasion(s) when personnel are informed of ethical rules governing their activities, indicating whether this is done when they begin performing them or at a later point, when a change in their functions entails a different set of applicable ethical rules, or when changes are made to those rules, the State under review points out in its response that this is done when personnel come on board and when changes, updates, or internal transfers are made.

[357] As for the existence of induction, training or instructional courses for personnel on the ethical rules governing their activities and, particularly, on the consequences of failure to abide by them for public institutions and for wrongdoers, the State under review notes in its response that there are internal and other programs to teach

the personnel at large about general as well as ethics-related regulations in public administration. The latter programs are conducted through the National Public Administration Institute of Paraguay (INAPP).

[358] As regards the use of modern communication technologies to apprise personnel of the ethical rules governing their activities and to provide guidance as to their scope or interpretation, the State under review indicates in its response that this is done through internal virtual platforms, i.e., the intranet (approved for mandatory use by Resolution SFP 342/2015), internal messaging (spark), institutional mail, and the web page (www.sfp.gov.py).

[359] With respect to the existence of bodies to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, the State under review points out in its response that this is the responsibility of the Transparency and Anti-Corruption Directorate, which reports to the Office of the Director General of the SFP, as well as of the Institutional Committee on Ethics and Good Governance, established by Resolution SFP 1099/2014.

[360] Lastly, as concerns the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review points out in its response that this falls to the Institutional Committee on Ethics and Good Governance, established by Resolution SFP 1099/2014.

- Statutory and other legal provisions or measures applicable to the personnel of the Public Prosecution Service (MP), of which special mention should be made of the following:

[361] The Internal Regulations of the Public Prosecution Service Training Center (CEMP) establish the following programs:⁹⁴

[362] *a) Employment Induction Program: Intended for deputy prosecutors, public prosecutors, and personnel working for the institution.*

[363] *b) Re-induction Program: Intended for personnel promoted to higher-level posts.*

[364] *c) Continuing Training Program: Intended for deputy prosecutors, public prosecutors, and Public Prosecution Service personnel. Its objective is to provide theoretical and practical knowledge for the performance of their functions.*

[365] *d) Update Program: Intended for deputy prosecutors, public prosecutors, and Public Prosecution Service personnel. Its objective is to offer training to meet the institution's challenges and needs. The Update Programs may be incorporated into the Continuing Training Programs when so warranted by the time elapsed and the relevance of their contents, subject to a review by the Directorate for Academic Training and the Directorate for Curriculum Review and Evaluation.*

[366] *e) Specialized programs: Intended for deputy prosecutors, public prosecutors, and personnel of specialized units and technical support bodies who, by virtue of their functions, require specific forms of training.*

[367] The Code of Ethics of the Public Prosecution Service

⁹⁴ <http://www.ministeriopublico.gov.py/institucional-i58>.

[368] As regards the manner in which personnel are informed of their responsibilities and functions, the State under review reports in its response to the questionnaire⁹⁵ that this is done verbally by the Human Talent Directorate through an induction course.

[369] With respect to the occasion(s) when personnel are informed of their responsibilities and functions, indicating whether this is done when they begin performing them or at a later point; when those functions change; or when functions change due to a change of post, the State under review reports in its response to the questionnaire⁹⁶ that this is done upon entry into the institution as well as when posts change as a result of changes in functions that call for retraining to adapt to the new requirements; this is generally handled by the Training Center of the Public Prosecution Service.

[370] As to the existence of induction, training, or instructional programs and courses for personnel on how to perform their responsibilities and functions properly and, particularly, for making them aware of the risks of corruption inherent in the performance of those functions, the State under review indicates in its response to the questionnaire⁹⁷ that induction is carried out verbally upon entry into the institution, in two stages—a general one and another that is more specific to the post.

[371] With regard to the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the State under review reports in its response to the questionnaire⁹⁸ that this is being done thorough the MP intranet, the institution's web page, and a virtual platform that has been used to disseminate the Code of Ethics (aulas.py).

[372] In relation to the existence of bodies to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly, the State under review indicates in its response to the questionnaire⁹⁹ that, when performing their functions, public servants have the option of resorting to their immediate supervisors or, as appropriate, to the Human Talent Management Directorate.

[373] As concerns the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of their responsibilities and functions, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review points out in its response to the questionnaire¹⁰⁰ that in all cases this is the responsibility of the immediate supervisor and thereafter of the next higher up supervisors and that the body concerned in the MP is the Human Talent Management Directorate.

[374] As regards to the way in which personnel are informed of the ethical rules governing their activities, indicating whether this is done verbally or in writing and whether records are kept of those instructions, the State under review reports in its response to the questionnaire¹⁰¹ that in 2013 and 2014, the "Socialization of the Code of Ethics" was developed in virtual form.

[375] With respect to the occasion(s) when personnel are informed of ethical rules governing their activities, indicating whether this is done when they begin performing them or at a later point; when a change in their functions entails a different set of applicable ethical rules; or when changes are made to those rules, the State

⁹⁵ Response of Paraguay to the questionnaire for the Fifth Round, p. 5.

⁹⁶ Response of Paraguay to the questionnaire for the Fifth Round, p. 6.

⁹⁷ Response of Paraguay to the questionnaire for the Fifth Round, p. 7.

⁹⁸ Response of Paraguay to the questionnaire for the Fifth Round, p. 7.

⁹⁹ Response of Paraguay to the questionnaire for the Fifth Round, p. 9.

¹⁰⁰ Response of Paraguay to the questionnaire for the Fifth Round, p. 9.

¹⁰¹ Response of Paraguay to the questionnaire for the Fifth Round, p. 11.

under review indicates in its response to the questionnaire¹⁰² that the Code of Ethics of the MP is made available to personal upon their entry into service and then in a permanent fashion since it has been mainstreamed into all training modules.

[376] As concerns the existence of induction, training or instructional courses for personnel on the ethical rules governing their activities and, particularly, on the consequences of failure to abide by them for public institutions and for wrongdoers, the State under review points out in its response to the questionnaire¹⁰³ that, as of the current year, socialization of the Code of Ethics has been included in all curricula of the CEMP, both in induction and in continuing and update training and that this training takes place in the face-to-face mode and attendance records are kept.

[377] As for the use of modern communication technologies to apprise personnel of the ethical rules governing their activities and to provide guidance as to their scope or interpretation, the State under review notes in its response to the questionnaire¹⁰⁴ that the ethical rules are available on the MP web page and that, in 2013 and 2014, virtual courses were offered to socialize the Code of Ethics.

[378] In relation to the existence of bodies to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, the State under review indicates in its response to the questionnaire¹⁰⁵ that this is the responsibility of the Ethics Committee, as established in Article 12 of the Code of Ethics.

[379] With respect to the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review reports in its response to the questionnaire¹⁰⁶ that this is handled by the Ethics Manager, pursuant to Article 13 of the Code of Ethics.

- Statutory and other legal provisions or measures applicable to the personnel of the Judicial Branch (PJ), of which special mention should be made of the following:

[380] Code of Judicial Ethics: promulgated by Agreement 390 of October 18, 2005, and directed at judges throughout the nation.

[381] Code of Ethics for Judicial Branch Personnel, promulgated by Agreement 844 of October 1, 2013, and directed at Judicial Branch personnel, contract staff, trainees, and interns throughout the country.

[382] Code of Good Governance of the Judicial Branch of the Republic of Paraguay, currently in force through Agreement 783 of September 18, 2012¹⁰⁷.

[383] As for the manner in which personnel are informed of their responsibilities and functions, the State under review reports in its response to the questionnaire¹⁰⁸ that the principal responsibilities and functions are communicated to the personnel through training talks and induction courses as well as through written or verbal

¹⁰² Response of Paraguay to the questionnaire for the Fifth Round, p. 12.

¹⁰³ Response of Paraguay to the questionnaire for the Fifth Round, p. 12.

¹⁰⁴ Response of Paraguay to the questionnaire for the Fifth Round, p. 13.

¹⁰⁵ Response of Paraguay to the questionnaire for the Fifth Round, p. 13.

¹⁰⁶ Response of Paraguay to the questionnaire for the Fifth Round, p. 14.

¹⁰⁷ http://www.pj.gov.py/images/contenido/programas/codigo_buen_gobierno_PJ_Py.pdf.

¹⁰⁸ Response of Paraguay to the questionnaire for the Fifth Round, p. 4.

instructions issued by their immediate supervisors. The principal department responsible for these communications is the Induction Division, which reports to the Development Directorate of the Office of the Director General for Human Resources of the Supreme Court of Justice and which must carry out all necessary activities for proper orientation and support for employees who recently joined the institution.

[384] With respect to the occasion(s) when personnel are informed of their responsibilities and functions, the State under review indicates in its response¹⁰⁹ that personnel are informed of their responsibilities when they join the institution; to this end, employees are summoned to talks on both their specific functions and their general duties as personnel of the justice system of the Republic.

[385] In relation to the existence of induction, training or instructional programs and courses for personnel on how to perform their responsibilities and functions properly and, particularly, for making them aware of the risks of corruption inherent in the performance of those functions, the State under review points out in its response¹¹⁰ that the Induction Division is currently holding periodic talks in which training is offered on the principal rules to be observed by personnel according to the areas in which they work as well as on the ethical rules governing their functions, in addition to information on benefits, subsidies, and scholarship program and courses that are of benefit to personnel.

[386] As for the use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly, the State under review indicates in its response¹¹¹ that the primary technological means used to disseminate information on the functions and responsibilities of personnel is the web page of the Judicial Branch¹¹², which is also synchronized with diverse social networks through which essential information on personnel activities, duties, and rights is disseminated. Similarly, they added that there are not many information technologies other than the web page and online queries to address doubts on the matter; rather the preference is for face-to-face modules and training talks.

[387] In relation to the existence of bodies to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly, the State under review reports in its response¹¹³ that this is the responsibility of the Training and Development Department, whose principal objective is to plan, organize, direct, and monitor all necessary activities for personnel development in the institution, aimed at maintaining suitable and qualified human capital who demonstrate proactive leadership and are pleased to fulfill their role in the organization.

[388] With respect to the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of their responsibilities and functions, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review points out in its response¹¹⁴ that the Induction Division, which reports to the Office of the Director General for Human Resources, is responsible for informing personnel of their responsibilities and functions, whereas the Evaluation and Performance Division is the body responsible for monitoring compliance with them.

[389] As concerns the way in which personnel are informed of the ethical rules governing their activities, indicating whether this is done verbally or in writing and whether records are kept of those instructions, the State

¹⁰⁹ Response of Paraguay to the questionnaire for the Fifth Round, p. 5.

¹¹⁰ *Idem*, p. 6.

¹¹¹ *Idem*, p. 7.

¹¹² <http://www.pj.gov.py/>.

¹¹³ Response of Paraguay to the questionnaire for the Fifth Round, p. 8.

¹¹⁴ *Idem*, p. 9.

under review reports in its response¹¹⁵ that personnel are informed of the institutional ethical rules through talks and complimentary print materials such as folders, pamphlets, and copies of the institutional ethical standards¹¹⁶.

[390] With regard to the occasion(s) when personnel are informed of ethical rules governing their activities, indicating whether this is done when they begin performing them or at a later point; when a change in their functions entails a different set of applicable ethical rules; or when changes are made to those rules, the State under review indicates in its response¹¹⁷ that personnel are informed of the ethical rules both at the moment they join the institution and periodically through socialization programs, which are planned and organized by the Office of Judicial Ethics, created by Resolution 577 of December 6, 2005.

[391] As for the existence of induction, training, or instructional courses for personnel on the ethical rules governing their activities and, particularly, on the consequences of failure to abide by them for public institutions and for wrongdoers, the State under review notes in its response¹¹⁸ that the Office of Judicial Ethics conducts activities to make personnel aware of the institutional ethical rules and that these training workshops are organized by the Training and Development Department of the Human Resource Directorate of the Supreme Court of Justice jointly with the Office of Judicial Ethics, as established in Agreement 844/13, which approves the Code of Judicial Ethics for Judicial Branch personnel, Article 40 of which provides for training in and dissemination of the aforementioned document. The State adds that these offices, pursuant to the aforementioned agreement, are promoting the organization of training workshops on socialization of the Code of Judicial Ethics, which are intended for judicial personnel, in principle, in the jurisdictional area.

[392] With respect to the use of modern communication technologies to apprise personnel of the ethical rules governing their activities and to provide guidance as to their scope or interpretation, the State under review reiterates in its response¹¹⁹ that the institutional portal is the principal means of communicating the institutional ethical rules.

[393] As for the existence of bodies to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities, the State under review indicates in its response¹²⁰ that this is the responsibility of the Office of Judicial Ethics, which currently has an Inquiry Area to which both personnel and judges can resort to ask questions about the scope of the ethical rules of the Judicial Branch, either personally or anonymously, and answers are provided by the Office in the form of opinions.

[394] With respect to the existence of a governing organ, authority, or body responsible for defining, steering, advising, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard, the State under review points out in its response¹²¹ that the Ethics Tribunals, one for personnel and the other for judges, have been established for these purposes.

1.2. Adequacy of the legal framework and/or other measures

¹¹⁵ *Idem*, p. 10.

¹¹⁶ For further information, see <http://www.pj.gov.py/notas/10901-capacitan-sobre-codigo-de-etica-a-funcionarios-judiciales> and <http://www.pj.gov.py/notas/11028-continua-socializacion-del-codigo-de-etica>

¹¹⁷ *Idem*, p. 11.

¹¹⁸ *Idem*, p. 12.

¹¹⁹ *Idem*, p. 12.

¹²⁰ *Idem*, p. 13.

¹²¹ *Idem*, p. 14.

[395] With regard to constitutional, statutory, and other legal provisions reviewed by the Committee concerning measures designed to issue instructions to the personnel of the three public entities selected by the State under review to ensure proper understanding of their responsibilities and the ethical rules governing their activities, these provisions are clearly relevant to the purposes of the Convention.

[396] Nonetheless, the Committee deems it appropriate to make some comments on them:

- In relation to the provisions and measures applicable to the personnel of the Civil Service Secretariat (SFP), the Committee considers the following:

[397] First, the Committee notes that, during the on-site visit, the SFP representatives presented information on the induction and training courses on ethical values organized by the National Public Administration Institute of Paraguay (INAPP),¹²² in the framework of the Program for Public Ethics, Transparency, and Integrity in Public Administration, offered to personnel of the central public administration and the specialized agencies.¹²³

[398] On that occasion, they explained that the INAPP taught macro-level induction courses on such topics as the development of codes of ethics for institutions that did not yet have one, on codes of ethics for those that did, and on the Good Governance Code.

[399] With respect to the process for selecting personnel to participate in the courses, they said that it was the officials of each institution who proposed the participants.

[400] In this connection, the Committee notes that on that occasion the SFP representatives pointed out that the INAPP courses were very useful but that there were several difficulties associated with them, such as a lack of funding, the need to make the personnel and officials of the government bodies and agencies more aware of the importance of continuing education and training for their personnel, and the shortage of sufficient human resources in the INAPP to properly carry out the institution's personnel training functions. Accordingly, the Committee considers it advisable for the State under review to strengthen the INAPP by providing it with the necessary human and budgetary resources, within available resources, to properly perform its function of training the personnel of government bodies and agencies; and to raise the awareness among the personnel and officials of government bodies and agencies about the importance of continuing education and training for their personnel, especially considering that it is these officials who propose the personnel who will receive training in ethical rules. The Committee will formulate recommendations to this effect (see recommendations 1.4.1 and 1.4.2 in Chapter III of this report).

[401] Second, the Committee notes that, during the on-site visit, the SFP representatives indicated that these courses were directed at senior public management rather than at the general personnel of the central administration and decentralized bodies. Moreover, these training sessions were largely attended by permanent staff, with very few opportunities for contract personnel. They also said that there were no re-induction courses and that this type of training was not offered to employees unless their performance evaluations warranted it.

[402] Accordingly, the Committee deems it advisable for the State under review to take the necessary budgetary and other measures, within available resources, to offer induction, re-induction, and continuing training courses to all personnel of government bodies and agencies, irrespective of how they are hired, to ensure proper

¹²² INAPP website:

http://www.paraguay.gov.py/en/sfp?p_p_id=101&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_101_urlTitle=instituto-de-la-administracion-publica-del-paraguay-inapp-&_101_struts_action=%2Fasset_publisher%2Fview_content&_101_type=content&_101_assetEntryId=1644901.

¹²³ See the PowerPoint presentation at http://www.oas.org/juridico/spanish/mesicic4_pry_sp.htm.

understanding of their responsibilities and the ethical rules governing their activities, and it will formulate a recommendation to this effect (see recommendation 1.4.3 in Chapter III of this report).

[403] Similarly, in the interests of promoting and strengthening probity and preventing corruption in the civil service, the Committee will formulate a recommendation to the State under review regarding the advisability of including, as part of the training for the INAAP, information, provisions, or other measures that it considers appropriate to raise the awareness of everyone who serves in the public sector about the inherent corruption risks in the performance of their official duties as well as the consequences of, and penalties for, committing acts of corruption. (See Recommendation 1.4.4. in Chapter III of this report.)

[404] Third, the Committee points out that the Code of Ethics for the Executive Branch provides for the establishment of the National Public Ethics Commission, whose functions include, inter alia, enforcement of the Code of Ethics for individuals appointed to political leadership posts or trust positions; resolving doubts about the interpretation of the rules of the Code of Ethics and serving as an advisory body for individuals appointed to political leadership posts or trust positions as well as for the diverse institutional public ethics commissions; promoting, on the basis of complaints received or on its own initiative, the investigation of allegations concerning violations of the rules of ethical conduct; exercising regulatory and ethical oversight of the institutional public ethics commissions; and issuing rules of procedure for implementing the very Code of Ethics (Articles 28 and 29).

[405] However, during the on-site visit, the SFP representatives reported that the National Public Ethics Commission had not been set up yet, which would have to be coordinated with the SFP itself, because of a lack of resources and the need for a commitment from the private sector. The Committee therefore considers it important for the State under review to take the necessary measures for the National Public Ethics Commission to be established and begin to operate, providing the SFP with the necessary resources, within available resources, to that end; as well as to take the necessary measures, as appropriate, for coordination with private initiative and civil society organizations. The Committee will formulate a recommendation to this effect (see recommendation 1.4.5 in section 1.4 of Chapter III of this report)

[406] Lastly, the Committee notes that, during the on-site visit, the SFP representatives indicated among their cooperation requirements the need for sufficient budgetary resources to finance the INAPP courses as well for technical cooperation for program design and follow-up, especially in induction, regulatory development, and the impact assessment of training. In its response, the State under review also expressed the need for the exchange of experiences and the adoption of best practices identified at the interagency level or at the level of international organizations viewed as benchmarks. In this connection, the Committee takes note of the needs expressed by the SPF for the State under review to provide it with necessary support, and it invites the States Parties, as well as other cooperation organizations, to help the institution in these matters. The Committee will formulate a recommendation to this effect (see recommendation 1.4.6 in section 1.4 of Chapter III of this report)

- In relation to the provisions and measures applicable to the personnel of the Public Prosecution Service (MP), the Committee considers the following:

[407] First, the Committee notes that, during the on-site visit, the MP representatives presented information on the training activities offered through the Public Prosecution Service Training Center (CEMP).¹²⁴

[408] They reported on that occasion that, as of 2015, socialization of the Code of Ethics had been incorporated into all CEMP training programs, which include the induction program for public prosecutors, the continuing

¹²⁴ Available at http://www.oas.org/juridico/spanish/mesicic4_pry_sp.htm.

training program, and the specialized programs. As concerns re-inductions, they said that these were held only in cases in which an employee assumed a new post or was promoted.

[409] On this point, the MP representatives said that one of the difficulties they encountered was the shortage of human and budgetary resources to service all of the institution's personnel. As a result, courses were held in a virtual classroom, which made it possible to reach a larger number of personnel. However, they found it difficult to install and administer the classroom since they did not have the skilled staff to do so, nor were they able to pay for overhauling the virtual classroom. In this regard, they mentioned that they were in negotiations with the European Union to acquire their own program.

[410] Another problem associated with the virtual classroom was that not all institutions outside the capital were connected or else that their connections did not support the virtual platform's software program, which affected the number of personnel who could take part.

[411] Accordingly, the Committee deems it advisable for the State under review to provide the CEMP with the human, technological, and budgetary resources needed to fully perform its functions and make necessary training available to the largest possible number of personnel in order to ensure proper understanding of their responsibilities and the ethical rules governing their activities. The Committee will formulate a recommendation to this effect (see recommendation 1.4.7 in section 1.4 of Chapter III of this report).

[412] In addition, in its response¹²⁵ the State under review identifies among its difficulties: *"the absence of systematization of information on the instructions issued on job responsibilities and functions for personnel who join the institution for the first time as well as for those promoted to other posts. There is no performance evaluation tool; however, work is under way to develop such tools."* In this respect, the Committee considers it appropriate for the State under review to take the necessary measures to systematize this information and implement a post evaluation tool, taking into account that this could serve to evaluate a public servant's comprehension of their responsibilities and functions, and will formulate recommendations to this effect (see recommendations 1.4.8 and 1.4.9 in section 1.4 Chapter III of this report).

[413] In relation to the Code of Ethics of the Public Prosecution Service, the Committee notes that this set of rules is not available on the institution's Internet portal. Accordingly, the Committee deems it important for this document to be available on the portal and will formulate a recommendation to this effect (see recommendation 1.4.9 in Chapter III of this report).

[414] Finally, as concerns technical cooperation needs, the Committee under review notes the following in its response:¹²⁶ *"Clearly, socialization of the Code of Ethics is not sufficient to guarantee ethical conduct. This being the case, other strategies are being sought to strengthen ethical behavior through other mechanisms. In this context, technical cooperation is needed to hold workshops and to develop orientation guides for personnel and modern technology to make it possible to achieve these objectives."*

[415] In this regard, the Committee takes note of the needs expressed by the MP for the State under review to provide it with the necessary support and invites the States Parties as well as other cooperation organizations to help the institution in these matters. The Committee will formulate a recommendation to this effect (see recommendation 1.4.10 in Chapter III of this report).

¹²⁵ Response of Paraguay to the questionnaire for the Fifth Round, p. 24.

¹²⁶ Response of Paraguay to the questionnaire for the Fifth Round, p. 24.

- In relation to the provisions and measures applicable to the personnel of the Judicial Branch (PJ), the Committee considers the following:

[416] First, the Committee notes that, in its response,¹²⁷ the State under review pointed out the following as a difficulty: *“The main difficulties concerning ethical rules have to do with their dissemination to the mass of employees, which, while it is taking giant steps forward, has still not reached a large sector of them. This pertains not only to Judicial Branch employees but also to legal professionals and to the public at large, to enable them to play an oversight role in this ethical monitoring of public institutions.”*

[417] In fact, the Committee also notes that, during the on-sight visit, the representatives of the Judicial Branch pointed out that the institution had 11,000 permanent staff members, whereas the Office of Judicial Ethics had a mere seven who worked in training. Along the same lines, they added that the ethics office did not offer re-induction courses, even though such courses were regularly requested. There were also constant requests for ethics courses from courts outside the capital, but it was extremely difficult to provide all of this with only seven employees.

[418] In this regard, the Committee deems it appropriate for the State under review to strengthen the Office of Judicial Ethics by providing it with the necessary human and budgetary resources, within available resources, to perform its functions properly, and it will formulate a recommendation to this effect (see recommendation 1.4.12 in section 4.1 of Chapter III of this report).

[419] Likewise, on that occasion the PJ representatives said that they were in the midst of a strengthening process through the creation of a training center, which had been established two years earlier and was currently being consolidated. They added that technical cooperation was needed to implement a virtual program similar to that of the MP Training Center (CEMP), with experiences from other countries and similar curricula to which the personnel could have access. The Committee takes note of the needs identified by the PJ for the State under review to provide it with necessary support, and it invites the States Parties as well as other cooperation organizations to help the institution in these matters. The Committee will formulate a recommendation to this effect (see recommendation 1.4.13 in section 1.4 of Chapter III of this report).

1.3. Results of the legal framework and/or other measures

[420] Both in its response to the questionnaire and during the on-site visit, the State under review presented the following results achieved through the application of provisions and/or measures relating to the instructions issued to the personnel of selected public entities to ensure proper understanding of their responsibilities, functions, and the ethical rules governing their activities, namely:

[421] – As concerns the SFP and its personnel, the following stands out in the information presented in the response:¹²⁸

[422] *The holding of internal induction processes, INAPP¹²⁹ training/refresher courses, and courses for the OEE, as well as update workshops on human talent management procedures in public institutions.*¹³⁰

¹²⁷ Response of Paraguay to the questionnaire for the Fifth Round, p. 23.

¹²⁸ Response of Paraguay to the questionnaire for the Fifth Round, p. 17.

¹²⁹ <http://inapp.sfp.gov.py/>; <http://54.207.3.16/sfp/articulo/12566-curso-internacional-tica-y-administracion-publica-en-america-latina-.html>.

¹³⁰ <http://54.207.3.16/sfp/articulo/12633-ndice-de-gestin-de-personas-versin-actualizada.html>.

[423] *Orientation Guides for public servants: some materials available on the SFP website;¹³¹ a complaint box installed on the SFP website; the complaint protocol approved by Resolution SFP 96/2014; and reports resulting from the Transparency Directorate management on cases that were reported/processed and settled.*

[424] By the same token, during the on-site visit, the results of the training courses offered through the INAPP were presented, among which the following are noteworthy:¹³²

COURSES OF 40 ACADEMIC HOURS	DIPLOMA COURSES OF 250 TO 600 ACADEMIC HOURS	COURSES TAUGHT	SOURCES OF FINANCING	ENTITIES SERVED
Public servants trained 2014: 880 2015: 984 SICCA: 150 ETHICS: 200	Public servants trained 2014/2015: 250	2014: 53 2015: 40	UNDP, AECID, IDB, USAID	2014: 63 2015: 50

[425] – As concerns the MP, the State under review provided the following information in its response:¹³³

[426] *The MP, through its Training Center’s activities, has implemented a systematized continuing training mechanism for its personnel as well as for justice officials from other institutions such as the Judicial Branch, the National Police, the Secretariat for the Prevention of Money and Asset Laundering, and the Office of the Auditor General of the Executive Branch, among others, based on pre-established Strategic Objectives for the current five-year period. These job training activities are carried out through face-to-face and distance education. Impact assessment tools were used to measure the participants’ knowledge and satisfaction in relation to both the teaching itself and the services provided by the CEMP and the teachers.*

[427] *Summaries have been appended for 2012, 2013, and 2014, disaggregated by the total number of public prosecutors and MP personnel trained and well as personnel from other institutions, along with the evaluations.*¹³⁴

[428] – With regard to the Judicial Branch, the State under review provided information in its response, noteworthy among which is the following:

[429] a) Holding of induction courses, frequency, number and percentage of public servants covered: The Supreme Court of Justice has, within its Organizational Structure (approved by Resolution 1681 of August 19, 2008), an Induction Division, which is responsible for holding induction courses for all Judicial Branch personnel. The Induction Division currently holds Face-to-Face Induction Workshops for all personnel on an average of twice a week. The workshops are intended for new employees primarily and for personnel who have not yet attended them. They are held for separate groups of employees given the large number of public servants working for the Judicial Branch. In addition, when personnel are appointed or recategorized, they are given tours

¹³¹ www.sfp.gov.py.

¹³² PowerPoint presentation available at http://www.oas.org/juridico/spanish/mesicic4_pry_sp.htm.

¹³³ Response of Paraguay to the questionnaire for the Fifth Round, pp. 17-21.

¹³⁴ Response of Paraguay to the questionnaire for the Fifth Round, pp. 18-21.

of the institution during which a psychologist talks to them about their functions. According to the Induction Division, as of May 20, 2015 this year, 476 employees were given tours and 166 people attended the Face-to-Face Workshops, with 355 more yet to attend.

[430] b) Implementation of face-to-face or virtual programs to comply with the preceding point: As specified in the point above, induction workshops are held throughout the year. At present, no virtual programs or workshop are being held, but personnel have access to the course materials on the Judicial Branch's web page (www.pj.gov.py).

[431] c) Guides to provide guidance to personnel on the performance of their functions: The organizational structure of the Supreme Court of Justice also includes the Training and Development Department, which comes under the Human Resource Development Directorate, which, in turn, reports to the General Human Resource Directorate. The Training and Development Department offers courses and provides guides for personnel in the judicial area in all jurisdictions, as well as courses for personnel in the administrative area. In addition, the Supreme Court has had a Judicial Training Center and virtual classrooms since 2013 for the development of training programs for magistrates, judges, and personnel. Full information in this regard is available on the Judicial Branch web page (www.pj.gov.py).

[432] d) Response to queries in connection with the preceding point: Public servants with any questions in this regard may call the extensions of the Training and Development Department or, as the case may be, the Induction Department; and any interested employee may even call and sign up voluntarily for the course offered by this division.

[433] e) Activities to verify whether the purposes have been achieved: The Judicial Branch does not have any specific activity to verify the effectiveness of the courses and workshops held in the context of personnel training, but these activities are constantly being monitored by all justice officials and by certain Judicial Branch departments and will be identified in the following point, since they correspond more closely to measures taken rather than to activities held.

[434] f) Measures taken to ensure that these activities are properly carried out: The Judicial Branch, through the Personnel Management Directorate, has an Inspectorate Division, which is charged with careful monitoring of the regulations and their enforcement. That Division also does periodic checks of all personnel. The Judicial Branch also has a Complaints and Allegations System, whereby any Judiciary Branch employee may report ill treatment, corruption, default, illegal exercise of the profession, absence, and abandonment of posts by personnel, among other things. The same are reported to the Complaints and Allegations Office of the Judicial Branch, and judicial system personnel or actors may seek information on any related topic through a dedicated phone line in the case of questions or on the Judicial Branch's web page (www.pj.gov.py).

[435] The Committee considers that the foregoing information serves to demonstrate that the public entities selected by the State under review have achieved results in the application of provisions and/or measures on instructions to personnel to ensure proper understanding of their responsibilities and functions.

[436] This notwithstanding, the Committee considers it would be useful to complement the statistical data from all public entities selected by the State under review with data on the holding of induction, training, or instructional courses to ensure that their personnel have a proper understanding of the ethical rules governing their activities, the periodicity or frequency with which these courses are offered, the number of public servants participating in them, the use of technological tools for these purposes, and the activities carried out to verify whether the purpose of conveying an understanding of said ethical rules has been achieved (see recommendation 1.4.14 in section 1.4 of Chapter III of this report).

[437] Lastly, the Committee considers that it would benefit the State under review if the public entities selected and others had guides, guidelines, or other types of instruments to provide public servants with direction on the proper fulfillment of their functions and to make them aware of the risks of corruption inherent in the performance of their responsibilities, as well as on the scope and interpretation of the ethical rules governing their activities and the consequences of failure to abide by them for public institutions and for wrongdoers (see recommendation 1.4.15 in section 1.4 of Chapter III of this report).

1.4. Recommendations

[438] In view of the comments made in sections 1.2 and 1.3 in Chapter III of this report, the Committee suggests that the State under review consider the following recommendations:

- 1.4.1. Strengthen the National Public Administration Institute of Paraguay (INAPP) by providing it with the necessary human and budgetary resources, within available resources, to properly perform its function of training the personnel of government bodies and agencies. (See paragraphs 397 to 400 of section 1.3 in Chapter III of this report).
- 1.4.2. Raise the awareness of the personnel and officials of government bodies and agencies of the importance of continuing education and training for their personnel, especially considering that it is these officials who propose the personnel who will receive training in ethical rules. (See paragraphs 397 to 400 of section 1.3 in Chapter III of this report).
- 1.4.3. Take the necessary budgetary and other measures, within available resources, to offer induction, re-induction, and continuing training courses to all the personnel of government bodies and agencies, irrespective of how they are hired, to ensure proper understanding of their responsibilities and the ethical rules governing their activities. (See paragraphs 401 to 402 of section 1.3 in Chapter III of this report).
- 1.4.4. Include, as part of the contents of the training for the INAAP, information, provisions, or other measures considered appropriate to raise the awareness of everyone who serves in the public sector about the inherent corruption risks in the performance of their official duties as well as the consequences of, and penalties for, committing acts of corruption. (See paragraph 403 of section 1.2 in Chapter III of this report).
- 1.4.5. Establish the National Public Ethics Commission, providing the SFP with the necessary resources, within available resources, for that purpose and coordinating, as appropriate, with civil society organizations and the private sector, taking into consideration the importance of the functions of the aforementioned Commission for the implementation of the purposes of paragraph III of Article 3 of the Convention. (See paragraphs 404 to 405 of section 1.3 in Chapter III of this report).
- 1.4.6. Take the necessary steps to enter into agreements with other States and cooperation organizations to provide the INAPP with the necessary technical cooperation for financing the induction and ethical training courses it offers and for program design and follow-up, especially in induction, regulatory development, and the impact assessment of training; and for promoting the exchange of experiences and the adoption of best practices identified at the interagency level or at the level of international organizations viewed as benchmarks. (See paragraph 406 of section 1.3 in Chapter III of this report).
- 1.4.7. Provide the Public Prosecution Service Training Center (CEMP) with the human, technological, and budgetary resources needed, within available resources, to fully perform its functions and make necessary training available to the largest possible number of personnel in order to ensure proper

understanding of their responsibilities and the ethical rules governing their activities. (See paragraphs 407 to 411 of section 1.3 in Chapter III of this report).

- 1.4.8. Take the necessary measures to systematize information on the instructions issued on job responsibilities and functions for personnel who join the institution for the first time as well as for those promoted to other posts. (See paragraph 412 of section 1.3 in Chapter III of this report).
- 1.4.9. Take the necessary measures to implement a performance evaluation tool for Public Prosecution Service personnel. (See paragraph 412 of section 1.3 in Chapter III of this report).
- 1.4.10. Post the Code of Ethics of the Public Prosecution Service on the Internet Portal of the entity, so that it may be easily accessible to all personnel and to the general public. (See paragraph 413 of section 1.3 in Chapter III of this report).
- 1.4.11. Take the necessary steps to enter into agreements with other states and cooperation organizations to provide the MP with the technical cooperation needed to hold workshops and develop orientation manuals for personnel and modern technology to facilitate achievement of the goal of ensuring ethical conduct by the public servants working for the institution. (See paragraphs 414 to 415 of section 1.3 in Chapter III of this report).
- 1.4.12. Strengthen the Judicial Ethics Office, providing it with the necessary human and budgetary resources, within available resources, to properly perform its functions related to the training and induction of officials regarding proper understanding of their responsibilities and the ethical rules governing their activities. (See paragraphs 416 to 418 of section 1.3 in Chapter III of this report).
- 1.4.13. Take the necessary steps to enter into agreements with other states and cooperation organizations to provide the PJ with technical cooperation for implementing a virtual training program on ethics topics with experiences from other countries and similar curricula to which the personnel could have access. (See paragraph 419 of section 1.3 in Chapter III of this report).
- 1.4.14. Complement the statistical data of the SFP, the MP, and the PJ with data, disaggregated by date, on the induction, training, or instructional courses held to ensure that their personnel have a proper understanding of the ethical norms governing their activities, the periodicity or frequency with which these courses are offered, the number of public servants participating in them, the use of technological tools for these purposes, and the activities carried out to verify whether the purpose of conveying an understanding of said ethical rules has been achieved. (See paragraphs 420 to 436 of section 1.3 in Chapter III of this report).
- 1.4.15. Develop guides, guidelines, or other types of instruments to provide public servants with direction on the proper fulfillment of their functions and to make them aware of the risks of corruption inherent in the performance of their responsibilities, as well as on the scope and interpretation of the ethical rules governing their activities and the consequences of failure to abide by them for public institutions and for wrongdoers. (See paragraph 415 of section 1.3 in Chapter III of this report).

2. STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE (ARTICLE III, PARAGRAPH 12, OF THE CONVENTION)

2.1. STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE

[439] In its reply to the questionnaire,¹³⁵ the State under review indicates that: *“To date there have been no studies of this issue: however, it should be noted that in the current year all the aspects referred to are being analyzed, together with others of relevance, for the definition of a public sector compensation policy, involving representatives of the private sector and taking into account the interrelations between sectors.”*

2.2. ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT CRITERIA FOR SETTING PUBLIC SERVANTS’ SALARY LEVELS

2.2.1. Existence of provisions in the legal framework and/or other measures

[440] The Republic of Paraguay has some provisions intended to determine public servants’ salary levels, such as the following:

[441] – [Law No. 5189/14](#), “Establishing the obligation of providing information on the use of public resources for wages and salaries and other remunerations assigned to the public servants of the Republic of Paraguay,” provides that all public agencies and entities, binational agencies, entities in which the Paraguayan State has a shareholding, and private bodies that handle state resources shall publish, on their web sites, all public information on the agency or entity and on their administrative and human resources.

[442] – Decree No. 193/2003 classifies the nature of positions to be filled, together with their position in the hierarchy and inherent responsibilities and the qualifications needed to hold them.

[443] – Decree 2929/2015, “Regulating Law 5386/2015, whereby the General National Budget for fiscal year 2015 was adopted.”

[444] – The General Budget of the Nation for item 100, “Personnel Services,” which identifies the allocations for “Salaries” and “Bonuses / Incentives / Temporary Remunerations.”

[445] – Decree No. 10.643/2007, establishing the classification system for judicial and administrative positions and adopting the Classification, Job Title, and Wage and Salary Table for the Supreme Court of Justice; that table groups positions into different hierarchies and is applied to the personnel annex as approved annually in the General National Budget.

[446] – Document No. 34 of July 24, 1997, adopting the Judiciary Positions Manual, which describes the functions, responsibilities, and profiles of judicial positions in the secretariats of judicial offices.

2.2.2. Adequacy of the legal framework and/or of other measures

[447] With regard to the provisions related to the establishment of objective and transparent criteria for establishing the salary levels of public servants, based on the information available to it, the Committee believes it would be appropriate to offer certain comments in relation thereto:

[448] First, the Committee notes that during the on-site visit, the representatives of the SFP reported that as yet there was no wage policy law for public officials, and that that situation gave rise to a range of inequalities, with different wage floors and ceilings because each state agency or body is responsible for the allocation of budgetary categories, in accordance with its organizational structure and posts.

¹³⁵ Response of Paraguay to the Fifth Round Questionnaire, p. 27.

[449] In addition, in its reply, the State under review indicated that: *“The SFP was charged with preparing a new salary scale for public officials, to include variable salary allocations and to unify them under a single item. It also aims to standardize the earnings of similar positions.”*¹³⁶

[450] During the on-site visit, the SFP’s representatives explained that although many state agencies and entities had been incorporated into the new salary scale, there was no guarantee that all of them were abiding by it.

[451] Among the difficulties caused by the absence of a wage policy law, the SFP identified the following:¹³⁷

[452] *“– A budgetary classification system exists, but it has not been respected by every agency.*

[453] *– Superiors enjoy broad discretion in awarding basic salaries, bonuses, and incentives to their office staff.*

[454] *– The inclusion by members of the National Congress of their own guidelines in the positions and salaries of public administration personnel, thereby creating unnecessary positions within the national budget intended for people allied with them, regardless of their qualifications. They also added that the implementation of the new Centralized Integrated Administrative Career System (SICCA) has been of use in addressing this problem, because it uses an encrypted computer program and lawmakers are unable to alter public positions.*

[455] *– The absence of criteria for internal and external equity within the public sector.*

[456] *– Inequalities in salaries (similar positions with different salaries; lower positions receiving more pay than higher ones) are known to be a factor behind the loss of worker motivation. An example of this is that a driver can be placed in an auditor’s post and paid as such, simply by adding the language “is to perform the duties of a driver,” while an auditor can be assigned to a much lower classification and salary level in spite of discharging responsibilities of a much higher level”.*

[457] In connection with this, they also reported that the new salary scale does not apply to public officials hired on a contract basis, who earn much less than the minimum wage allocated to officials in permanent positions. This leads to salary inequalities between public servants who perform similar functions but who are paid differently depending on the nature of their employment relationship with the State.

[458] In addition, since each agency sets its own remuneration levels depending on its budgetary allocation, a brain-drain problem has arisen: better qualified personnel prefer to relocate to other agencies or to the private sector, where they can earn better wages, and this creates an imbalance in the public sector.

[459] Finally, the SFP’s representatives emphasized the need to implement a wage policy law that is based on the fundamental principles of legality, ethics, objectivity, unity, equity, reasonableness, and transparency,¹³⁸ that sets a salary scale for senior positions, that addresses the situation of the decentralized entities, and that includes the design of salary scales that correspond to budgeted positions, a two-yearly review of those scales, and indirect social benefits, including health and life insurance and personal security.

[460] As regards the remuneration system in the Public Prosecution Service (MP), during the on-site visit the representatives of the MP indicated that they had requested the application of the new salary scale prepared by the SFP and that they expected to become a part of that platform in 2016.

¹³⁶ Response of Paraguay to the Fifth Round Questionnaire, p. 27.

¹³⁷ PowerPoint presentation at http://www.oas.org/juridico/spanish/mesicic4_pry_sp.htm.

¹³⁸ See http://54.207.3.16/sfp/archivos/documentos/Ayuda%20Memoria%20SFP_c2mgbhbb.pdf.

[461] In consideration whereof, the Committee believes it would be useful for the State under review to consider taking the necessary legislative measures to adopt a wage policy law that establishes, as a minimum, objective criteria for equitable compensation in the public sector. The Committee will formulate a recommendation (see recommendation 2.2.3.1 in section 2.2.3 of Chapter III of this Report).

[462] Similarly, and taking into consideration that the State under review does not have yet a salary policy law, and that the Matrix is not mandatory for all State agencies and bodies, the Committee believes that in the meantime, it would be useful for the State under review to take the necessary measures to implement the salary scale prepared by the SFP in all State agencies and entities under its authority. The Committee will formulate a recommendation (see recommendation 2.2.3.2 in section 2.2.3 Chapter III of this Report).

2.2.3. Recommendations

[463] Based on the analysis set out in the preceding paragraphs as regards the implementation in the State under review of the provision contained in Article III, paragraph 12, of the Convention, the Committee suggests that the State under review consider the following recommendations:

2.2.3.1. Consider taking the necessary legislative measures to adopt a wage policy law that establishes, as a minimum, objective and transparent criteria for equitable compensation in the public sector. (See paragraphs 448 to 461 of section 2.2.1 of Chapter III of this report).

2.2.3.2. Take the necessary measures to implement the salary scale prepared by the SFP in all State agencies and entities under its authority. (See paragraph 462 of section 2.2.1 of Chapter III of this report).

IV. BEST PRACTICES

[464] The country under review did not present information on best practices related to the implementation of the provisions of the Convention selected for the Second and Fifth Rounds of Review.

**COMMITTEE OF EXPERTS
OF THE FOLLOW-UP MECHANISM ON THE IMPLEMENTATION
OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

FIFTH ROUND OF REVIEW

**AGENDA
FOR THE ON-SITE VISIT
REPUBLIC OF PARAGUAY¹³⁹**

<u>Wednesday, September 30 2015</u>	
08:00 – 09:00 hrs Hotel Granados Park	Coordination meeting between the representatives of the member states of the Subgroup and the Technical Secretariat
10:00 hrs – 10:15 hrs Office of the Attorney General	Meeting with the Attorney General
10:15 hrs – 11:00 hrs Office of the Attorney General	Coordination meeting between the representatives of the State under review, the member states of the Subgroup, and the Technical Secretariat
11:00 hrs. – 12:30 hrs Office of the Attorney General	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics or researchers
11:00 hrs – 12:30 hrs	<u>Topic 1:</u> <ul style="list-style-type: none">• Government hiring systems and training and remuneration of government officers
	<u>Suggested participants:</u> <ul style="list-style-type: none">- Association of Magistrates of Paraguay

¹³⁹. This agenda has been agreed on in accordance with provisions 13 and 14 of the *Methodology for On-site Visits*, available at http://www.oas.org/juridico/spanish/met_insitu.pdf.

	<p>Ángel Daniel Cohene Chair</p> <ul style="list-style-type: none"> - Association of Prosecutors Ariel Martínez Chair - Center for Environmental Studies (CEAMSO) Mercedes Argaña <p>Isaac Almiron</p>
12:30 hrs. – 14:00 hrs	Lunch
14:00 hrs. –17:00 hrs Office of the Attorney General	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics or researchers
14:00 hrs –15:30 hrs	<p><u>Topic 2:</u></p> <ul style="list-style-type: none"> • Systems for government procurement of goods and services
	<ul style="list-style-type: none"> - Information and Resource Center for Development (CIRD) Mary Royg Coordinator Victor Romero Consultant - Citizen Comptrollership Network of Paraguay - Center for Environmental Studies (CEAMSO) Mercedes Argaña <p>Isaac Almirón</p>
15:30 hrs – 17:00 hrs	<p><u>Topic 3:</u></p> <ul style="list-style-type: none"> • Systems for the protection of corruption whistleblowers
	<ul style="list-style-type: none"> - Association of Prosecutors Ariel Martínez Chair - Center for Judicial Studies (CEJ)

	<p>María Victoria Rivas Executive Director</p> <p>- College of Lawyers Rubén Galeano Chair</p> <p>Oscar Paciello Vice-Chair</p>
17:00 hrs	Informal meeting¹⁴⁰ between the representatives of the Subgroup member states and the Technical Secretariat.
<u>Thursday, October 1st 2015</u>	
9:00 hrs – 12:00 hrs Office of the Attorney General	Meetings with public authorities: Government hiring systems and training and remuneration of government officers
9:00 hrs –12:00 hrs	<p><u>Panel 1</u></p> <ul style="list-style-type: none"> • Follow-up of the Second Round recommendations on government hiring systems: <p><i>Central Administration and Office of the Comptroller General</i></p> <ul style="list-style-type: none"> - SICCA contracting system (<i>Paraguay Concursa</i>) - Systems for filing challenges - Results - Difficulties encountered and technical cooperation needs <p><i>Public Prosecution Service (MP)</i></p> <ul style="list-style-type: none"> - The human talent management policy of the Public Prosecution Service, and the procedures for selecting, incorporating, and promoting officers of the Public Prosecution Service - Results - Difficulties encountered and technical cooperation needs <hr/> <ul style="list-style-type: none"> - Civil Service Secretariat

¹⁴⁰. The second paragraph of provision 20 of the *Methodology for Conducting On-site Visits* states: “...At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings...”

	<p>Humberto Peralta Minister Executive Secretary</p> <p>Claudia Lebrón Director General Legal Affairs</p> <p>Gloria Benítez Director General Planning and Monitoring</p> <p>Zulma Díaz Delgado Director General of Competitions</p> <p>Rossana Báez Director General National Public Administration Institute of Paraguay (INAPP)</p> <p>Juan Ramón Ramírez Director of Transparency</p> <ul style="list-style-type: none"> - Office of the Comptroller General Juan Carlos Cano Cabral Director General of Planning - Public Prosecution Service (MP) Elizabet Alvarenga Director
<p>12:00 hrs. – 13:30 hrs</p>	<p>Lunch</p>
<p>13:30 hrs – 17:00 hrs</p> <p>Office of the Attorney General</p>	<p>Meetings with public authorities: Preventive measures that take into account the relationship between equitable compensation and probity in public service, and instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them</p>
<p>13:30 hrs – 15:30 hrs</p>	<p><u>Panel 2:</u></p> <ul style="list-style-type: none"> • Preventive measures that take into account the relationship between equitable compensation and probity in public service <p><i>Central Administration and Office of the Comptroller General</i></p>

	<ul style="list-style-type: none">- Criteria currently used to determine officers' pay in the Central Administration and the Comptroller General's Office- The design of the new salary scale for public officials and other progress- Difficulties encountered and technical cooperation needs <p><i>Public Prosecution Service and Judiciary</i></p> <ul style="list-style-type: none">- Studies carried out- Objective and transparent criteria for setting public servants' salary levels- Difficulties encountered and technical cooperation needs
	<ul style="list-style-type: none">- Civil Service Secretariat Humberto Peralta Minister Executive Secretary Claudia Lebrón Director General Legal Affairs Gloria Benítez Director General Planning and Monitoring Zulma Díaz Delgado Director General of Competitions Rossana Báez Director General National Public Administration Institute of Paraguay (INAPP) Juan Ramón Ramírez Director of Transparency - Office of the Comptroller General Juan Carlos Cano Cabral Director General of Planning - Public Prosecution Service (MP) Elizabet Alvarenga Director - Judiciary Jim Zaracho

	<p>Chief Office of Institutional Integrity</p>
15:30 hrs –17:00 hrs	<p><u>Panel 3:</u></p> <ul style="list-style-type: none">• Instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them:<ul style="list-style-type: none">- Legal framework, programs, competent agencies, and use of technology- Results- Difficulties encountered and technical cooperation needs <hr/> <ul style="list-style-type: none">- Civil Service Secretariat Humberto Peralta Minister Executive Secretary Claudia Lebrón Director General Legal Affairs Gloria Benítez Director General Planning and Monitoring Zulma Díaz Delgado Director General of Competitions Rossana Báez Director General National Public Administration Institute of Paraguay (INAPP) Juan Ramón Ramírez Director of Transparency- Office of the Comptroller General Juan Carlos Cano Cabral Director General of Planning- Public Prosecution Service (MP) Elizabet Alvarenga Director Nancy Ovelar Liaison CEMP- Judiciary Jim Zaracho

	Chief Office of Institutional Integrity
17:00 hrs	Informal meeting¹⁴¹ between the representatives of the Subgroup member states and the Technical Secretariat.
<u>Friday, October 2 2015</u>	
9:00 hrs – 12:00 hrs Office of the Attorney General	Meetings with public authorities: Systems for government procurement of goods and services
9:00 hrs – 12:00 hrs	<u>Panel 4:</u> <ul style="list-style-type: none"> • Systems for government procurement of goods and services: <ul style="list-style-type: none"> - Progress and new developments with the implementation of those recommendations pending compliance - Results - Difficulties encountered in the implementation processes - Technical cooperation needs
	<ul style="list-style-type: none"> - National Directorate of Public Procurement (DNCP) Mauro Quiñonez Peca Coordinator Anticorruption Unit
12:00 hrs. – 14:00 hrs	Lunch
14:00 hrs –17:00 hrs Office of the Attorney General	Meetings with public authorities: Systems for the protection of corruption whistleblowers and criminalization of corruption offenses

¹⁴¹. The second paragraph of provision 20 of the *Methodology for Conducting On-site Visits* states: “...At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings...”

14:00 hrs –15:30 hrs	<p><u>Panel 5:</u></p> <ul style="list-style-type: none">• Follow-up of the Second Round recommendations: Systems for the protection of corruption whistleblowers<ul style="list-style-type: none">- Progress, new developments, and the results thereof in implementation of those recommendations pending compliance- Results- Difficulties encountered in the implementation processes- Technical cooperation needs and good practices <hr/> <ul style="list-style-type: none">- Public Prosecution Service (MP)<ul style="list-style-type: none">Marta Garcete Coordinator Dirección del Programa de Protección a Víctimas y Testigos María Eusebia Segovia Jefa de Análisis y Evaluación Dirección del Programa de Protección a Víctimas y Testigos - Civil Service Secretariat<ul style="list-style-type: none">NameTitle
15:30 hrs –17:00 hrs	<p><u>Panel 6:</u></p> <ul style="list-style-type: none">• Follow-up of the Second Round recommendations: Criminalization of corruption offenses<ul style="list-style-type: none">- Results
	<ul style="list-style-type: none">- Judiciary<ul style="list-style-type: none">Jim Zaracho Chief Office of Institutional Integrity - Gonzalo Sosa Director Office of Judicial Ethics (Judiciary) - Rafael Monzón General Superintendent Justice Superintendency Council (CSJ) - Fabiana López Director Directorate of Judicial Statistics (Judiciary)

17:00 hrs	Informal meeting between the representatives of the Subgroup member states and the Technical Secretariat
17:30 hrs	Final meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat

OFFICIALS WHO ACTED AS CONTACTS IN THE STATE UNDER REVIEW IN COORDINATING THE ON-SITE VISIT, AS WELL AS REPRESENTATIVES OF THE MEMBER STATES OF THE SUBGROUP AND OF THE MESICIC TECHNICAL SECRETARIAT WHO TOOK PART IN THE VISIT

STATE UNDER REVIEW:

PARAGUAY

Federico Espinoza

Lead Expert on the Committee of Experts of the MESICIC
Assistant Prosecutor General
Public Prosecution Service

ESTADOS MIEMBROS DEL SUBGRUPO DE ANÁLISIS PRELIMINAR:

GUYANA

Aubrey Nelson Heath-Retemyer

Lead Expert on the Committee of Experts of the MESICIC
Chief Executive Officer
State Asset Recovery Agency

REPÚBLICA DOMINICANA

Rafael Alberto Basora

Lead Expert on the Committee of Experts of the MESICIC
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