



Semillas
para la Democracia

UNCA CIVIL
SOCIETY **Coalition**

Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to such restrictions as shall only be such as are provided for

CIVIL SOCIETY REPORT

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION

IN PARAGUAY

by Semillas para la Democracia

Acknowledgements

With the aim of contributing to the national UNCAC in Paraguay in its second cycle, this shadow report was written by Semillas para la Democracia using the guidance materials and report template designed by the UNCAC Coalition and Transparency International.

The production of this report was supported by the UNCAC Coalition, made possible through funding provided by the Norwegian Agency for Development Cooperation (Norad) and the Danish Ministry of Foreign Affairs (Danida).

The findings in this report are those of the authors, but do not necessarily reflect the views of the UNCAC Coalition and the donors who made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 9 July 2021.

Semillas para la Democracia wishes to express its gratitude to the people, professionals and activists, for their commendable work supporting the production of this report voluntarily through interviews and reviews, with no other satisfaction than to support a citizen process in favor of transparency and the fight against corruption in Paraguay.

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<p>Semillas para la Democracia is a non-profit civil society association whose main objective is to improve the quality of democracy through the promotion of citizen participation, social equity and responsible government.</p>
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List of persons consulted

Institution/Position	Name of person interviewed	Date of interview
CCL Coordinator Citizen Comptroller Luque	Oscar Aguilera	18/02/21
Lawyer, member of the Coordinating Committee of Paraguayan Lawyers and Citizen's Movement "Somos Anticorrupción Paraguay"	Maria Esther Roa	20/02/21
Public Policy and Human Rights Analyst - NGO Technology and Community (TEDIC)	Eduardo Carillo	19/02/21
Journalist specializing in corruption investigations (Última Hora)	Roberto Irrazabal	26/03/21
Lawyer, journalist specializing in corruption investigations (ABC Color)	Juan Carlos Lezcano	16/03/21
Union of Journalists of Paraguay	Noelia Diaz Esquivel	23/03/21
Decidamos - Campaign for Citizen Expression	Enrique Gauto	12/03/21
Executive Secretary of the Coordinadora de Derechos Humanos del Paraguay (Human Rights Coordinating Committee of Paraguay)	Oscar Ayala	24/03/21
Consultant. Former Minister Auditor General of the Executive Branch	Bertha Rodriguez de Perinetti	28/04/21
Public Institution/Position	Authority interviewed and/or consulted by telephone*	Date of interview
SENAC/Director of International Affairs and Cooperation	Abg. Clara Aquino	16/03/21
AGPE/Minister - Auditor General	Abg. Luis Cardozo Olmedo	10/05/21
TSJE - Director of the Political Financing Technical Unit	Abg. Daniel Echague	04/06/21
DNCP - National Director	Abg. Pablo Seitz*	07/06/21

Abbreviations

While the abbreviations are provided in both Spanish and English in the following table, they are used in their original Spanish version throughout the report for institutions and laws and in their English version for names of international institutions or initiatives.

Abbr.	Spanish	English
AGPE	Auditoría General del Poder Ejecutivo	General Audit Office of the Executive Branch
AML/CTF	Anti-Money laundering and counter terrorist financing	
COSP	Conference of States Parties	
CGR	Contraloría General de la República	Office of the Comptroller General of the Republic
CICC	Convención Interamericana contra la Corrupción	Inter-American Convention against Corruption
CLAD	Centro Latinoamericano de Administración para el Desarrollo	Latin American Center of Administration for Development
CODEHUPY	Coordinadora de Derechos Humanos del Paraguay	Human Rights Coordinator of Paraguay
CSJ	Corte Suprema de Justicia	Supreme Court of Justice
CSO	Civil Society Organizations	
DNCP	Dirección Nacional de Contrataciones Públicas	National Directorate of Public Contracting
ENIT	Equipo Nacional de Integridad y Transparencia	National Integrity and Transparency Team
FATF	Financial Action Task Force	
FIU	Financial Intelligence Unit	
GAFILAT	Grupo de Acción Financiera de Latinoamérica	Latin American Financial Action Task Force
HCD	Honorable Cámara de Diputados	Honorable Chamber of Deputies
HCS	Honorable Cámara de Senadores	Honorable House of Senators
MECIP	Modelo Estándar de Control Interno para las Entidades Públicas del Paraguay	Standard Model of Internal Control for Public Entities of Paraguay
MESICIC	Mecanismo de Seguimiento de la Implementación de la Convención Interamericana contra la Corrupción	Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption
MH	Ministerio de Hacienda	Ministry of Finance

MSMES	Micro, pequeñas y medianas empresas	Micro, small and medium enterprises
MJ	Ministerio de Justicia	Ministry of Justice
MP	Ministerio Público	Public Prosecutor's Office
OECD	Organization for Economic Cooperation and Development	
OEE	Organismos y Entidades del Estado	State Agencies and Entities
PE	Poder Ejecutivo	Executive Branch
PGR	Procuraduría General de la República	Attorney General's Office of the Republic
PJ	Poder Judicial	Judiciary
SENABICO	Secretaría Nacional de Administración de Bienes Incautados y Comisados	National Secretariat for the Administration of Seized and Confiscated Assets
SENAC	Secretaría Nacional Anticorrupción	National Anti-Corruption Secretariat
SEPRELAD	Secretaría de Prevención de Lavado de Dinero o Bienes	Money or Asset Laundering Prevention Secretariat
SET	Subsecretaría de Estado de Tributación	Undersecretariat of State for Taxation
SFP	Secretaría de la Función Pública	Civil Service Secretariat
SIAF	Sistema Integrado de Administración Financiera	Integrated Financial Management System
STP	Secretaría Técnica de Planificación	Technical Secretariat for Planning
UNCAC	United Nations Convention against Corruption	
UTA	Unidades de Transparencia y Anticorrupción	Transparency and Anti-Corruption Units

Context and purpose

One of the most innovative ways of exercising citizenship is to influence the processes in which the State is accountable to international bodies, subjecting public authorities to international observation in monitoring systems that are increasingly binding and in which citizens are taking on an ever-greater role.

This shadow report on the implementation of the United Nations Convention against Corruption (UNCAC) offers a view from civil society, to report independently on the actions taken by the Paraguayan State to comply with the provisions Chapters II and V of the Convention, currently under review.

It is mainly based on the systematization of the experience of citizen monitoring and compiles this experience in order to serve as a source of basic information and at the same time as a reference for those who are interested in knowing more about the UNCAC and its review mechanisms.

The implementation of effective measures to combat corruption depends essentially on the citizenry and the involvement of more actors to recommend actions, analyze what has been done and overcome it in an effective way.

The authors of this report hope that this experience, which brings together the efforts of various actors, will inspire similar processes where broad participation and citizen commitment are key. The authors wish to highlight the leading role of civil society in advocacy, monitoring and constant vigilance with a view to the enforceability and implementation of the provisions of the UNCAC at the local level, since the best guarantee for the enforcement of these rights is a citizenry that is aware of its rights and knowledgeable about the mechanisms for their application.

1. Introduction

Paraguay signed the United Nations Convention against Corruption (UNCAC), which became part of the internal legal system of the country through its ratification by Law No. 2535 of 2005, which was promulgated on 26 January 2005. It entered into force on March 8 of the same year, upon its publication in the Official Gazette of the Republic of Paraguay.

This report is intended as a contribution to the ongoing UNCAC implementation review process covering chapters II (preventive measures) and V (asset recovery). The UNCAC Implementation Review Group selected Paraguay by a drawing of lots for review in the fifth year of the second cycle and selected the Bahamas and Saint Lucia as reviewers. A draft of this shadow report was shared with the Government of Paraguay.

The production of this shadow report is an innovative process in Paraguay. Although there are previous experiences of shadow reporting in the field of human rights, this is the first time that civil society has carried out a comprehensive monitoring of the UNCAC Implementation Review cycle. In this context, a significant way of exercising citizenship is to be able to monitor state reports on the implementation of and compliance with international commitments. This report brings together this experience of monitoring Paraguay's implementation of selected articles of Chapter II (preventive measures) and Chapter V (asset recovery) of the UNCAC.

Semillas para la Democracia, a civil society organization and member of the UNCAC Coalition, is the organization responsible for the preparation of this report, which has been prepared prior to the official second cycle UNCAC review.

Scope

The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Art. 5), preventive anti-corruption bodies (Art. 6), public sector employment (Art. 7.1), codes of conduct, conflicts of interest and asset declarations (Art. 7, 8 and 12), reporting mechanisms and whistleblower protection (Art. 8.1 and 8.4 and 13.2), political financing (Art. 7.3), public procurement (Art. 9.1), the management of public finances (Art. 9), judiciary and prosecution service (Art. 11), private sector transparency (Art. 12), access to information and the participation of society (Art. 10 and 13.1), and measures to prevent money laundering (Art. 14). It also covers anti-money laundering (Art. 52 and 58), measures for the direct recovery of property (Art. 53 and 56), confiscation tools (Art. 54), international cooperation for the purpose of confiscation (Arts. 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Art. 57).

Structure

The report begins with an executive summary, which includes condensed findings, conclusions and recommendations on the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Paraguay, as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed, and lastly, recommendations for priority actions to improve UNCAC implementation are given.

Methodology

The report was based on the methodology provided by the UNCAC Coalition, including guidelines and a reporting template elaborated together with Transparency International. These tools reflected but simplified form the United Nations Office on Drugs and Crime (UNODC) checklist¹ and called for relatively short assessments as compared to the detailed official self-assessments checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement. For the report, Semillas para la Democracia relied primarily on open data portals (active transparency) and public information requests.

¹ <https://www.unodc.org/unodc/en/corruption/ratification-status.html>.

2. Executive Summary

Although important progress has been made in terms of the development of legislation and public policies to combat corruption by the Paraguayan State, obstacles persist and there is evidence of insufficient action in the implementation of these policies to guarantee effective compliance with the United Nations Convention against Corruption (UNCAC).

Paraguay is invariably in the process of strengthening public administration policies that are truly open and useful to citizens, and in this regard the following positive aspects can be highlighted:

- 1) Regulatory adaptation related to the promotion of technologies for the fight against corruption: Since at least 2014, the government has developed open government action plans through the Open Government Partnership. The last open government action plan was carried out in 2018 with the participation of the State, civil society and the private sector.
- 2) Regarding Open Contracting, the Public Contracting portal reports the adoption of this standard for the publication of its data² and makes available data related to State suppliers and the respective amounts awarded in State contracts, which allows for more effective citizen control.
- 3) In 2019, the Paraguayan government enacted a package of ten laws as part of its strategy to assess its compliance with the 40 Recommendations of the Financial Action Task Force (FATF), thereby legislatively complying also with several of the UNCAC Chapter V mandates, which until that date had still been pending.
- 4) There have been important advances in the latest amendments to the Political Financing Law. The new legislation constitutes a challenge in terms of public policies to strengthen parties, reduce asymmetries and avoid the entry of money of illicit origin in electoral processes.

Although the UNCAC has been incorporated into domestic law, in practice it is not directly applied by the courts or the administration as a basis for their decisions.

The existence of a centralized body - such as the National Anti-Corruption Secretariat (SENAC) - does not automatically guarantee the implementation of these provisions throughout the State. A centralized agency has the virtue of its specialization but requires the adaptation of that specific knowledge to each jurisdictions' organizational context.

In this sense, the mainstreaming of transparency in public administration is key and requires clear guidelines on what constitutes a comprehensive transparency policy and an institutional framework for its implementation in the area of competence.

In Paraguay, corruption has a disproportionate and differentiated impact on historically discriminated groups, accentuating and replicating their exclusion from access to basic rights such as health, education, water, housing, etc.³ Although the UNCAC does not focus on the

² Dirección Nacional de Contrataciones Públicas [published]. <https://www.contrataciones.gov.py/datos/open-contracting-info>. Access date: July 09, 2021.

³ The 2030 Agenda for Sustainable Development highlights the need to integrate human rights and anti-corruption, in particular, in Sustainable Development Goal 16 on peace, justice and strong institutions: United Nations: Sustainable Development Goals [published] <https://www.un.org/sustainabledevelopment/peace-justice/>.

relationship between gender and corruption, it should be noted that women suffer the impact of corruption in a differentiated manner due to vulnerabilities derived from their gender, and there are also forms of corruption that affect them specifically, such as abuse, extortion and sexual exploitation.⁴

Availability of information

The authors of this report made use of public sources of information through the web portals of the Secretariat of the National Anti-Corruption Office (SENAC), Secretariat for the Prevention of Money Laundering (SEPRELAD), National Directorate of Public Contracting (DNCP), Legislative Information System of the Legislative Branch (SILpy), and the Observatory of Judicial Cases of the Supreme Court of Justice. Ten requests for access to information were also sent to public institutions. Approximately 40% of these requests processed through the Public Portal for Access to Information were answered in a timely, useful and complete manner. The rest turned out to be entirely unusable and incomplete. Regarding requests for interviews, the research team made an effort to obtain direct information from government offices by conducting four interviews and/or telephone consultations with high-level government authorities.

Application in law and practice

The Paraguayan Constitution of 1992 grants quasi-constitutional hierarchy to treaties, which are above the laws passed by the Legislative Power and other inferior norms such as judicial sentences.⁵ Similarly, treaties, once ratified, enjoy the same legal stability as the Constitution.

The normative and institutional development that exists in Paraguay arises mainly from the obligations that the country subscribes to from these international instruments, such as the Inter-American Convention against Corruption⁶ (1996) and the United Nations Convention against Corruption⁷ (2005).

Paraguay has already been subject to countless recommendations for the process of strengthening the fight against corruption by the Follow-up Mechanism for the Inter-American Convention against Corruption (MESICIC). Many of these recommendations relate to those derived from the chapters of the UNCAC, which are subject to review in this second review cycle.

The ongoing review of chapters II and V during this second cycle of the Implementation Review Mechanism of the United Nations Convention against Corruption highlights the importance of creating legislative and institutional frameworks that are consistent with the

⁴ The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) mentions in its General Recommendation No. 33, the need for States (15.e) to "address corruption in justice systems as an important element in eliminating discrimination against women in access to justice". [published] <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10710.pdf> . Access date: September 28, 2021.

⁵ Articles 137 and 141 of the 1992 National Constitution of the Republic of Paraguay [published]. <https://www.bacn.gov.py/constitucion-nacional-de-la-republica-del-paraguay>.

⁶ Law No. 977 of October 20, 1996, Approving the Inter-American Convention Against Corruption [published]. <http://digesto.senado.gov.py/detalles?id=4244>.

⁷ Law No. 2535/2005 " Approving the United Nations Convention against Corruption [published]. <https://www.bacn.gov.py/leyes-paraguayas/4027/aprueba-la-convencion-de-las-naciones-unidas-contra-la-corrupcion>.

requirements of those chapters and in accordance with the fundamental principles of the legal system of each State Party.

One of the essential elements of this report relates to the existence of immediately applicable laws as a guarantee of compliance with the provisions of the UNCAC; however, the mere existence of a norm does not always represent the effective way of enforcing it. In this regard, although Paraguay largely complies with the recommendations for regulatory adaptation, the anti-corruption actions developed by the government are not entirely timely, appropriate and adequate in accordance with the country's economic, institutional and/or social context.

Although some progress has been made on an agenda of transparency, ethics and public integrity and accountability, the need for such an agenda became particularly relevant in the pandemic scenario, which showed the limits and obstacles that persist. The pandemic also gave rise to new challenges for the actions of States and public administrations, where there is insufficient or scarce coordination among the various public entities with competence on the issue of corruption.

The main findings of this shadow report are as follows:

Art. 5 – Preventive policies and practices against corruption

The National Anticorruption Secretariat (SENAC) is the guiding, normative and strategic instance in the design, execution, implementation, monitoring and evaluation of the national government's public policies on anticorruption, integrity and transparency. The SENAC coordinates important bodies such as the Institutional Network of Transparency and Anticorruption of the Executive Branch and the National Integrity and Transparency Team (ENIT).

The SENAC is coordinating the process of elaboration of the National Integrity and Transparency Plan that involves the three branches of government (Executive, Legislative and Judicial) as an operational framework to define the policy, strategy and concrete actions to prevent, detect, punish and eradicate corruption. This plan is still in its final consolidation stage through a process of consultation with various stakeholders such as the business sector, cooperatives, academia and civil society organizations, which stands out as a good practice.

In spite of SENAC's notable institutional efforts, there is no comprehensive and sustainable anti-corruption policy model in place in Paraguay (which could survive the different changes of government). The diversity of institutional responsibilities in anti-corruption matters contributes to a dispersion of responsibilities; prevention entities with absolute independence and autonomy are non-existent at the moment.

Art. 6 – Corruption prevention body or bodies

There are several corruption prevention bodies in Paraguay. However, anti-corruption policies and/or agenda have been promoted mostly by the Executive Branch. The challenge remains to strengthen more proactive and complementary actions on anti-corruption issues by the

judiciary, the legislative branch (including political parties), local governments, civil society and the private sector.

Art. 7.1 – Employment in the public sector

Notable efforts have been made by the administration to professionalize the administrative career, not only through public competitions, but also through training plans and continuous training on various topics that are relevant to the efficient functioning of the administration.

Nevertheless, the high politicization of positions -defined by law- as top management, the constant rotation of personnel coinciding with changes in government, the persistence of the temporary hiring modality that legitimizes access to public employment under conditions of inequality and discrimination, and the formalistic implementation of performance management, which does not yield reliable and measurable information on the real performance of civil servants, are only some of the obstacles that persist and delay the effective strengthening of public employment as a strategic condition for quality governance.

Art. 7.3 – Political financing

The new law on political financing from 2020 does not allow for the Superior Court of Electoral Justice to apply sanctions to those candidates who commit irregularities in the rendering of accounts. The sanctions foreseen in the law is pecuniary and consists of either a fine or removal of the electoral subsidy in relation to the degree of compliance. However, it is the political group that assumes the consequences of the candidate's non-compliance, highlighting that this process does not prevent the candidate from continuing in the electoral race in spite of not rendering accounts on their campaign expenses.

There continue to be strong links between political financing and money laundering, and the operations of State contributors. The application of sanctions is one of the main challenges and its feasibility is related to the real capacities of the State to enforce the law consistently. More coordinated action is required from the Secretariat for the Prevention of Money Laundering, the Central Bank of Paraguay, the Ministry of Finance, the Superior Court of Electoral Justice, the Public Prosecutor's Office and the Comptroller General of the Republic.

Art. 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations

There is insufficient regulation of key issues such as conflicts of interest and sworn asset declarations in Paraguay. Hence, there is an urgent need to review and approve bills in line with international recommendations to unify the criteria in a single regulation of general application. Such a bill should allow for the identification and prevention of conflicts of interest in the performance of public services, the standardization of codes of conduct and the strengthening of the system of presentation and analysis of sworn statements of assets, making their publication mandatory in order to achieve more transparency.

Sworn asset and income declarations have only been public in Paraguay as of 2020 through a ruling of the Constitutional Chamber of the Supreme Court of Justice (CSJ), which ordered the

Office of the Comptroller General of the Republic to publish the sworn asset and income declarations of public officials submitted between the years 1998 and 2017. However, there is still a stumbling block in the current law that allows such statements to be published only with a court order, with which the sworn statements subsequent to the ruling, are not public to date (2018 onwards).

Art. 8.4 and 13.2 – Whistleblower Protection

Although Paraguay has developed regulations on the subject of witness protection, there are countless international recommendations to review them in order to bring them into line with the UNCAC. Despite this, the selective indictment of human rights defenders and the application of administrative punitive law for disciplinary purposes persist, used systematically by politicians and even judges and other public figures to persecute and intimidate whistleblowers of public corruption. Therefore, the development of adequate mechanisms for the protection of witnesses and whistleblowers is crucial.

There are two bills on the subject, but there has been no continuity in their review or in the debate on the results of the application of the current law and possible modifications.

Art. 9.1 – Public procurement

Public procurement continues to be the most vulnerable sector for acts of corruption. Therefore, the modern strategies of open procurement implemented by the Paraguayan government and the process of regulatory adaptation promoted by the General Directorate of Public Procurement constitute as significant advances in the strategies to fight corruption and shows the State's political will on this matter.

The implementation of the "Rindiendo Cuentas" platform, implemented as a result of public-private corruption scandals in the management of emergency funds during the first months (March 2020) of the declaration of the COVID-19 health emergency, gives citizens greater access to all of the public institutions' programs that were assigned to manage and execute the emergency resources. However, it should be noted that the available information is extremely technical, and is insufficient for citizens to be able to perform effective oversight over it.

Art. 9.2 – Management of public finances

In this unique period of the COVID-19 pandemic and the resulting emergency context, where the demands on the role of the administration to promote transparency and integrity policies that strengthen trust in the administration grew, quick and agile responses were required from the State. The implementation of the portal www.rindiendocuentas.gov.py, which allows for the monitoring of the public institutions' management of public resources, and an interactive map of investments "Covid-19 Module" in open data stand out as good practices that allow for greater transparency.

Despite the availability of portals with open data and extensive normative development on the matter, institutional weaknesses in terms of a scarce culture of integrity and an environment of poor internal control persist, according to several national and international institution reports.

Art. 10 and 13.1 – Access to information and participation of society

Paraguay has had an access to information law since 2014. A successful practice of transparency and access to public information is that of the Supreme Court of Justice, which makes available to the public a platform for monitoring emblematic cases of corruption that were selected in a participatory manner, through recommendations of the Paraguayan lawyers' associations and after requests for information, both from the media and the public. Various actions implemented by SENAC, such as the active transparency panel, the COVID-19 investment map, the citizen accountability manual, and the complaints panel are examples of good practices from the administration.

However, making information comprehensible to and usable for the public is a pending task in order to empower civil society and guarantee broad access to information.

Moreover, citizen participation mechanisms promoted by the public administration are focused solely on the use of technologies, through portals and even apps, but many of them do not include an accessibility approach and do not consider the digital divide in terms of interculturality, territoriality, generational diversity and gender.

Art. 11 – Judiciary and Prosecution Services

Political influence and nepotism continue to be the most effective means to access positions in the justice system. In such circumstances, impartiality, which is the most important prerequisite without which justice cannot be realized, can hardly be ensured. Furthermore, prosecutors facing objective investigations are not infrequently intimidated by proceedings before the Jury of Impeachment, or receive threats against their integrity, lacking the necessary security for the correct performance of their duties.

Additionally, there are several cases of selective criminalization, where criminal proceedings are promoted as a means of intimidation against social leaders, human rights defenders and journalists who investigate acts of corruption, without due process of law. On the other hand, there are several cases of major public corruption, without diligent investigations, which increase the sense of impunity.

Art. 12 – Transparency of the private sector

There is a need for greater involvement and commitment of the private sector in corruption prevention practices, based on the conviction that corruption is not a phenomenon exclusive to the public sector. There is a lack of regulation on conflicts of interest in the private sector and in relation to revolving doors.

In 2019, the following were created: the administrative registry of legal persons and structures and; a registry of beneficial owners, both with the purpose of making the regime of legal persons and structures in the country transparent, combating tax evasion, money laundering, corruption and financing of terrorism. The enforcement authority in charge of such registries is the Ministry of Finance through the General Directorate of Persons and Legal Structures.

The data of such registries is available to public authorities with competence in the prosecution of money laundering, monetary offenses, tax evasion and financing of terrorism, and banking, financial, insurance, securities and pension supervision or superintendence; however, the publication of the compliance or non-compliance status of the obliged subjects is foreseen through active transparency.

Art. 14, 52 and 58 – Anti-Money Laundering

Despite the recent regulatory changes, with which the minimum standards related to the prevention of money laundering, bribery, transnational bribery, special procedures for the deprivation of benefits and profits, confiscation, etc. were largely met, the regulatory and institutional frameworks are insufficient if they are not accompanied by political will and processes of capacity building of people, institutions and key organizations for their implementation, mainly in the fiscal and judicial areas. The lack of coordination between the different links in the judicial chain and insufficient clarity about the mandate of certain public institutions result in a partial or inadequate response to the phenomenon of organized crime in Paraguay.

It is therefore necessary to continue strengthening the authorities in charge of investigating money laundering and underlying crimes. Efforts to prevent and combat this crime -which has become transnational- are fundamental and coordination and international cooperation must be strengthened.

Art. 53 - 57 – Asset recovery

In Paraguayan criminal law, punishable acts have different patrimonial consequences, confiscation and special confiscation or deprivation of benefits constitute independent and additional consequences of the anti-juridical acts; but they are not exclusive of the punishable acts of public corruption. The deprivation of benefits is not regulated as a criminal sanction, but as an independent consequence that is not conviction-based.

The asset recovery policy in Paraguay is currently not aimed at repairing a problem of social damage. Without this, asset recovery becomes a mechanism for using asset forfeiture in criminal cases in isolation. Moreover, the greatest problem lies in the judicial sphere, where it is crucially necessary to promote a culture change in the operators of justice in order to give investigation of assets the same importance as investigation focused on the attribution of criminal responsibilities.

Table 1: Implementation and enforcement summary

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 5 – Preventive anti-corruption policies and practices	Largely implemented	Moderate
Art. 6 – Preventive anti-corruption body or bodies	Largely implemented	Moderate

Art. 7.1 - Public sector employment	Largely implemented	Moderate
Art. 7.3 – Political financing	Largely implemented	Moderate
Art. 7, 8 and 12 - Codes of conduct, conflicts of interest and asset declarations	Partially implemented	Poor
Art. 8.4 and 13.2 - Reporting mechanism and whistleblower protection	Partially implemented	Poor
Art. 9.1 - Public procurement	Largely implemented	Moderate
Art. 9.2 - Management of public finances	Largely implemented	Moderate
Art. 10 and 13.1 - Access to information and participation of society	Largely implemented	Moderate
Art. 11 - Judiciary and prosecution services	Largely implemented	Moderate
Art. 12 - Private sector transparency	Not implemented	Poor
Article 14 - Measures to prevent money-laundering	Largely implemented	Moderate
Art. 52 and 58 - Anti-money laundering	Largely implemented	Moderate
Art. 53 and 56 - Measures for direct recovery of property	Largely implemented	Moderate
Art. 54 - Confiscation tools	Largely implemented	Moderate
Article 57 - The return and disposal of confiscated property	Largely implemented	Moderate

Table 2: Performance of selected key institutions

Name of institution	Performance in relation to the responsibilities covered by the report	Brief commentary on performance
SENAC (National Anti-Corruption Secretariat)	Good	<ul style="list-style-type: none"> - Leads processes for the prevention and fight against corruption, but limited to the Executive Branch. - Low budget allocation and lack of autonomy and financial independence.
National Directorate of Public Contracting	Good	<ul style="list-style-type: none"> - It is an example of reference in open data and active transparency. - Leads regulatory reform process in order to improve transparency, prevent corruption,

		enhance integrity and strategic, socially responsible and sustainable public procurement.
MITIC (Ministry of Information and Communication Technologies)	Moderate	<ul style="list-style-type: none"> - Significant progress on the digital agenda, open data and connectivity as mechanisms for transparency. - Mistrust in the portals persists: poor functionality, language and provision of highly technical data and tools without a human rights approach in terms of accessibility for people in vulnerable situations.
SEPRELAD (Secretariat for the Prevention of Money Laundering or assets)	Moderate	<ul style="list-style-type: none"> - Leads the Financial Intelligence Unit (FIU) of the Republic of Paraguay. - It led the process of regulatory reform and adaptation to FATF and UNCAC recommendations.
National Civil Service Secretariat	Moderate	<ul style="list-style-type: none"> - It has made significant progress in recent years in the process of modernizing the administrative profession. - Persistent inability to eradicate clientelist practices in the appointment of civil servants.
Supreme Court of Justice	Good	<ul style="list-style-type: none"> - Gradual development of the electronic case file as a mechanism to increase the standards of security, transparency and availability of judicial records. - Development of competence in economic crimes and organized crime in the criminal jurisdiction. - Observatory of judicial cases related to acts of corruption. - Persistently low credibility, lack of effective independence.
Public Prosecutor's Office (MP)	Moderate	<ul style="list-style-type: none"> - Strengthening of the Specialized Unit on Economic Crimes, Anti-Corruption, Money Laundering and Terrorist Financing of the MP, with increased budget allocation and ongoing training. - Joint and harmonious work with the Directorate against Economic and Financial Crimes of the National Police. - There is still a lack of independence and interference by other branches of government, even at the behest of the Attorney General's Office itself, which has been tainted by allegations of corruption.⁸ - Low credibility.

⁸ ABC Color (2020), Tree of the corrupt 2020 stars Attorney General Sandra Quiñonez, [published]. <https://www.abc.com.py/nacionales/2020/12/23/arbol-de-los-corruptos-2020-tiene-como-estrella-a-la-fiscal-general-sandra-quinonez/>. Last accessed on: 09 July 2021.

Recommendations for priority actions

- 1. Ensure the active participation of civil society** in the fight against corruption, providing opportunities for civic monitoring and social auditing in a secure context.
- 2. Take measures to reduce the bureaucratization of public services**, in open and interoperable data, optimizing procedures, investing in electronic management platforms and ensuring confidential channels to measure the traceability of public services and the level of citizen satisfaction, with a human rights and gender approach that allows accessibility at all levels, including vulnerable populations.
- 3. Criminalize the punishable act of abuse of functions** in accordance with the Convention, and classify money laundering as an underlying offense.
- 4. Make public all sworn assets declarations** of obligated objects and suppliers of the State from 2018 until now, in open data.
- 5. Approve the draft law on integrity and prevention of conflicts of interest** in the performance of public functions, presented by SENAC, which incorporates the standards of the UNCAC and IACC, including the express regulation of the so-called revolving doors.
- 6. Legislatively promote the express prohibition of cash contributions and the distribution of gifts in electoral campaigns**, as well as the suspension of the party or candidate who incurs in infractions related to political financing.
- 7. Protect whistleblowers** by establishing accessible and anonymous reporting mechanisms, guaranteeing genuine protection against any form of persecution or reprisal, in accordance with the highest standards provided for in the Convention and other international best practice standards.
- 8. Approve the draft amendment to the public procurement law** in accordance with the legal gaps identified by the governing body that would contribute to further transparency of the processes allowing for greater control.
- 9. Promote prevention or compliance programs against corrupt practices in the private sector** guilds and companies.
- 10. Strengthen investigative bodies** with specialized intelligence techniques and integrated management systems in the institutions and explicitly **strengthen coordination mechanisms between the different state agencies** with competence in the fight against corruption, laundering of money and other assets, including asset recovery processes.
- 11. Promote bilateral and multilateral agreements** to increase international cooperation in the recovery of assets for confiscation purposes.
- 12. Strengthen access to justice** by investing adequately in institutions and ensuring transparent and independent processes in the selection and appointment of judges and prosecutors, and in the establishment of transparent criteria for the assignment of cases.

13. Effectively sanction those institutions in which indications of money laundering are detected, not only in the administrative sphere but also in the judicial sphere.

14. Make the registry of final beneficiaries public, to facilitate transparency and citizen control.

15. Invest more financial resources to strengthen courts and justice operators in charge of asset recovery in order to give asset investigations the same importance as those focused on the investigation for the attribution of criminal responsibilities.

16. Disseminate the text of the Convention and the State report on the UNCAC implementation review in Paraguay widely - in both official languages and in accessible formats, particularly for public administration officials and civil society organizations.

3. Assessment of the review process in Paraguay

The role of civil society in the fight against corruption is widely recognized and the UNCAC itself reaffirms this through its preamble and Article 13, which explicitly provides for the participation of civil society in the fight against corruption.

Enhanced civil society participation would give the review process legitimacy to further scrutinize anti-corruption reforms and prevention strategies undertaken by the state.

It should be noted that this report was prepared prior to the official review process. The sanitary emergency caused by COVID-19 created many obstacles for accessing official information, so this chapter is based on information obtained through an interview with one of the focal points of the UNCAC review process in Paraguay.

Report on the review process

With regard to monitoring systems, there are internal and external systems, in particular linked to regional (IACC) and international (UNCAC) conventions. In general, external monitoring systems are those that have contributed to progress in anti-corruption policies, establishing common minimum standards, placing the issue on the country's agenda, generating pressure, contributing to reducing impunity, helping to increase sanctions and forcing systematic data collection, which implies the creation of information systems, which in turn enable better monitoring.

Decree No. 1843/2019⁹ provides the SENAC with the power to prepare reports on the progress of the measures established in the anti-corruption conventions, and to monitor compliance with the recommendations made by the follow-up and review mechanisms established in the framework of the international Conventions against Corruption, as well as to serve as the Central Advisory Authority of the Inter-American Convention against Corruption of the Member States of the Organization of American States and the United Nations Convention against Corruption.

For the review process corresponding to the second cycle (2015 - 2024), SENAC is leading the process and was the institution that coordinated all other institutions for the UNCAC self-assessment checklist.¹⁰ The research team was unable to find out who the UNCAC focal point is, since the SENAC indicated that the Ministry of Foreign Affairs should be asked about this and the latter, when consulted, did not give a positive response.

The authorities in charge of leading the process that were consulted¹¹ stated that as of the date of submission of this report, the State had not yet received a reply on the self-assessment checklist they had submitted, so there is still no timetable for the review that would allow for the participation of civil society and the private sector.

⁹ Decree No. 1843, dated May 28, 2019 "Whereby several articles of Decree No. 10.144/2012, "Which creates the National Anti-Corruption Secretariat (SENAC), under the Presidency of the Republic" are amended, expanded and repealed [published]. https://www.presidencia.gov.py/archivos/documentos/DECRETO1843_giyx34ng.PDF.

¹⁰ National Anticorruption Secretariat (2020) [published]. <https://senac.gov.py/index.php/noticias/segundo-ciclo-de-evaluacion-de-la-uncac-es-coordinado-por-la-senac>. Date of access: 09 July 2021.

¹¹ Interview with C. Aquino, Director of International Affairs of SENAC, telematic communication, 16 March 2021.

Finally, the interview conducted highlighted that while Paraguay has made an important effort to inform the follow-up mechanisms of the Convention on the progress in complying with it, the response reports could be improved and the collaboration of civil society organizations, which contribute a citizen's vision to the reviewed topics, could be stimulated.

Paraguay's self-assessment checklist has not been published on official websites; however, it is accessible through the Access to Information Portal. This shows that many of the activities carried out by the State do not meet the standards of active transparency.

Table 3: Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country's focal point?	No	There is no official publication in this regard.
Was the review schedule been posted somewhere or made public?	No	There is no official publication in this regard.
Was civil society consulted in the preparation of the self-assessment checklist?	No	There is no record of a call or meeting with civil society.
Was the self-assessment checklist published online or made available to civil society?	N/A	To date, there is no record of civil society participation in the process.
Did the government agree to a country visit?	N/A	Paraguay does not have access to official information on the schedule of visits, referring in the interview that there is a possibility that it will be carried out by virtual means because of the COVID-19 pandemic.
Was a country visit undertaken?	N/A	This stage has not been reached yet.
Was civil society invited to provide input to the official reviewers?	N/A	This stage has not been reached yet.
Was the private sector invited to provide input to the official reviewers?	N/A	This stage has not been reached yet.
Has the government committed to publishing the full country report?	No	At the time of completion of this report, the government had not signed the Transparency Pledge promoted by the UNCAC Coalition. There is no commitment to publish the full report.

Access to information

There is a close link between transparency and information; however, information existing does not make it transparent. Accessibility, relevance, quality and reliability are the minimum attributes that information must have in order to be transparent. In Paraguay, Law 5.282 of 2014¹² regulates the right of access to public information and the law itself regulates the subjects obliged to provide them. Requests for access to public information can be made

¹² Law No. 5282/2014 "On Free Citizen Access to Public Information and Government Transparency" [published]. <https://www.bacn.gov.py/leyes-paraguayas/3013/libre-acceso-ciudadano-a-la-informacion-publica-y-transparencia-gubernamental>. Date of access: 09 July 2021.

through a unified portal www.informacionpublica.gov.py or directly at the offices of public institutions. For this report, Semillas para la Democracia requested information from different government agencies and governmental actors as well as from journalists and key civil society actors:

Table 4: Requests made through the Access to Information Portal and/or by Interview

Institution	Responded in time	Complete information
SENAC	Yes	Yes
SEPRELAD/Financial Intelligence Unit	Yes	Partially
SENABICO	No	Partially
CSJ	No	No
SFP	Yes	Partially
ENIT	Yes	Yes
TSJE	No	Partially
MRE	Yes	Partially
AGPE	Yes	Yes
DNCP	Yes	Yes

Furthermore, research on relevant press releases and interviews with journalists specializing in the field of corruption were key to the development of several sections of this report.

Regarding the availability of data, there is a catalogue of open government data available on the web with data from 115 State institutions, with the aim of empowering citizens by giving them the possibility of proposing improvements to the services offered by the State. This is part of several government initiatives that seek to ensure compliance with the law on access to information and includes the process of standardization of the institutions' portals in order to provide citizens with easy access to available data.¹³

SENAC has an "Open Data Panel of the Complaints System" where you can access the number of complaints registered on the portal; statistics on the institutions most affected by the complaints; the most reported types of facts; the processing of complaints; the outcome of the preliminary investigations initiated to clarify the facts reported; the number of administrative proceedings instituted against public officials for allegedly committing serious offences under Law No. 1626/2000, "On the Public Service", as well as the number of criminal cases.¹⁴

It is undeniable that significant advances have been made in access to public information; however, there are still technological, cultural, administrative and institutional obstacles to making it fully effective. Despite the efforts to date, there are institutions that provide their public information better than others, which is a sign of a lack of effective, constant and homogenized control by the authorities. The provision of information and/or documents in pdf-format and scanned files generate longer search and data processing times. This is made worse by low usability of the data available on the portals as minimum data of active transparency, the digital divide in terms of the level of internet access in certain areas, on top of the reluctance of some institutions to provide information to citizens, as a practice still in use that must be uprooted.¹⁵

¹³ Ministry of Information and Communication Technologies. Open Data Portal. <https://www.datos.gov.py/>.

¹⁴ Secretaría Nacional Anticorrupción. Panel de Denuncias. <https://paneldenuncias.senac.gov.py/#/>.

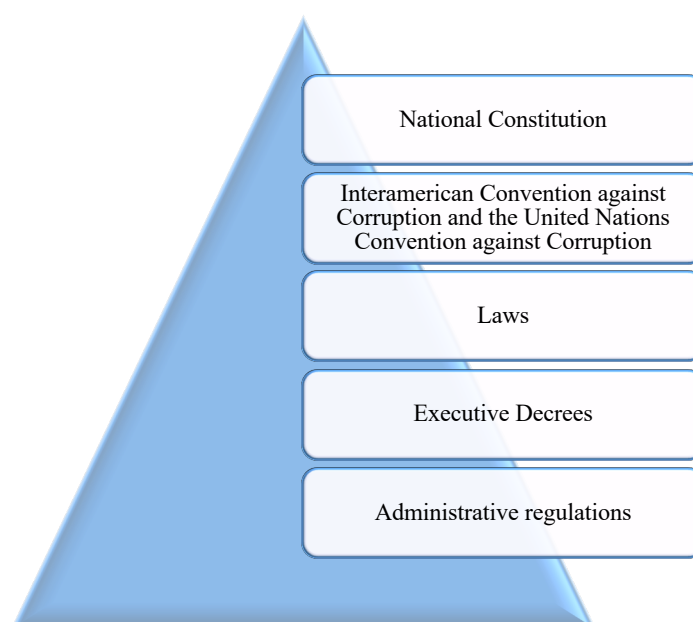
¹⁵ Interview with E. Carrillo, Public policy and human rights analyst - NGO Tecnología y Comunidad, personal virtual conversation, 19 February 2021.

4. Assessment of the implementation of Chapter II and Chapter V provisions

This section provides a brief analysis of the articles under review, starting with the legal framework, the effectiveness of their implementation through strategies and public policies, and in some cases highlighting the good practices as well as the obstacles or deficiencies detected.

4.1 Chapter II

The main regulatory framework on corruption is composed of:



Source: Own elaboration

4.1.1 Art. 5 - Preventive anti-corruption policies and practices

The National Anti-Corruption Secretariat (SENAC) is a Secretariat of the State, under the Executive Branch, with the rank of Ministry, created by Decree No. 10144 dated November 28, 2012. According to Art. 2 of the aforementioned decree, it is the governing, normative and strategic body in the design, execution, implementation, monitoring and evaluation of the national government's public policies in the areas of anti-corruption, integrity and transparency.

The SENAC coordinates important bodies such as the Institutional Transparency and Anti-Corruption Network of the Executive Branch and the National Integrity and Transparency Team (ENIT).¹⁶

The National Integrity and Transparency Plan is currently being developed involving the three branches of government (executive, legislative and judicial)¹⁷ as an operational framework to define the policy, strategy and concrete actions to prevent, detect, punish and eradicate

¹⁶ National Integrity and Transparency Team. <https://transparencia.gov.py/index.php/Quienes-Somos-1/ENIT>.

¹⁷ National Anticorruption Secretariat. National Integrity and Transparency Plan (2021-2025) [published]. <https://nube.senac.gov.py/s/jRWRXY6nH8iKmMx#pdfviewer>. Date of access: 09 July 2021.

corruption. It is still in its final consolidation stage through a process of consultation with various stakeholders such as the private sector, cooperatives, academia and civil society organizations.

Decree 2991/19 "Providing for the Implementation of the Citizen Accountability Manual" promoted by SENAC, in its first progress report, reports that during 2020, 88 Citizen Accountability Committees were formed and in the period 2021, the figure of 90 was reached out of a total of 115 institutions under the Executive Branch. These committees are composed of representatives of the institution's top management and their mission is to make them accountable to citizens in simple, friendly language and on an ongoing basis, meanwhile also seeking to involve civil society to participate in decision-making processes.¹⁸

In spite of the SENAC's notable institutional efforts through in a series of instruments such as: the National Integrity Plan; the Manual of Accountability to the Citizen¹⁹ - mandatory in the institutions of the executive branch; the Internal Control System - MECIP²⁰; the Guide for the Development of the Corruption Risk Map²¹; added to a dynamic legal framework and largely adapted it to the requirements of the Convention, a series of barriers persist. For example, the lack of legal certainty and independence of the judiciary, which results in a high level of impunity; discontinuity of policies and projects with changes of authorities; absence of regulations to manage conflicts of interest; prevalence of political privilege, clientelism and nepotism; lack of efficient control of political financing; weak development of a culture of ethics in the population; control institutions that do not have adequate computer systems for information processing and disjointed work among them.

Anti-corruption policies have not necessarily been accompanied by an effective communication strategy, in particular aimed at informing the public about the objectives and results of anti-corruption actions. The government should develop a strategic communication plan that brings the national anti-corruption strategy closer to the general public.²²

While the ENIT Country Report 2020 documents actions and progress in transparency, integrity and anti-corruption, the same report emphasizes the challenges that the State still faces for the effective implementation of an integrity policy.²³

In addition, there are management challenges. One of them is to move from a merely reactive "culture of cases" to a proactive "culture of integrity", where the preventive policy is the basis of the strategies that are developed. A State that places social justice at the center of its policies must include transparency as a fundamental component of this approach. To this end, it is

¹⁸ Interview with J. Noguera, General Director of Prevention and Transparency (SENAC), personal communication via email, July 5, 2021.

¹⁹ Decree No. 2912/2019 "Whereby the "Manual of Accountability to the Citizen" is approved, declared of national interest and its mandatory application in the Executive Branch Institutions" [published]. <https://nube.senac.gov.py/s/3qADqWmNePinPLi?path=%2FDecretos#pdfviewer>.

²⁰ Office of the Comptroller General of the Republic. Standard Model of Internal Control for Public Institutions in Paraguay. Mecip: 2015. <https://www.contraloria.gov.py/index.php/mecip>. Date of access: 09 July 2021.

²¹ National Anticorruption Secretariat. Corruption Risk Map. [online]. <https://www.mapasderiesgosdecorrupcion.com/>. Date of access: 09 July 2021.

²² Personal virtual interview with E. Gauto, Decidamos - Campaign for Citizen Expression, March 12, 2021.

²³ National Integrity and Transparency Team. TNA (2020). Integrity and Transparency. Country Report [online]. <https://nube.senac.gov.py/s/BJoks4gfjc4xmdd#pdfviewer>. Access date: 09 July 2021.

essential that transparency be a cross-cutting attribute in all areas where decisions are made, policies are implemented and resources are managed.

In practice, corruption has continued and spread, reaching worrying levels, which are reflected in international surveys and rankings. For example, Transparency International placed Paraguay in 137/180th place with a score of 28/100²⁴ in 2020, or the 2020 CCC Index,²⁵ where Paraguay is among the countries with the lowest performance in the overall ranking and in the three subcategories of the CCC Index, with a particularly poor performance in the subcategory of legal capacity. In this particular area, Paraguay is only ahead of Venezuela, Bolivia and the Dominican Republic, ranking 12/15 with a score of 3.88/10. Institutional weakness, the absence of effective control mechanisms, and the persistence of high levels of impunity are among the main reasons for such low scores.

Good practices: Inter-institutional coordination, promoted from SENAC, is an indispensable condition for the design and implementation of anti-corruption policies. In this sense, the development of the National Transparency and Integrity Plan through a process of inclusive discussion and involving all governmental and social actors, is allowing for a macro vision of the reality that is intended to be changed.

Deficiencies: Despite several actions and initiatives, it is impossible to identify a comprehensive and sustainable anti-corruption policy model (that survives the different changes of government). The diversity of institutional responsibilities in anti-corruption matters contributes to a dispersion of responsibilities. Currently, prevention entities with absolute independence and autonomy are inexistent.

4.1.2 Art. 6 - Corruption prevention body or bodies

The institutions identified as oversight bodies in the Republic of Paraguay are as follows:

By constitutional mandate, the superior control body par excellence is the Office of the Comptroller General of the Republic (Art. 281 and following articles); with control competence over the economic and financial activities of the State, the departments and municipalities, in the manner determined by the Constitution and its organic law. It enjoys functional and administrative autonomy. It audits the budgetary execution of all State Agencies and Entities (OEE), and prepares corresponding examinations to detect irregularities or acts of corruption. It is also the body in charge of receiving sworn asset declarations.

In the executive branch, those who have powers of control and prevention of acts of corruption are:

- **SENAC:** governing, regulatory and strategic body in the promotion of public policies on transparency and public integrity.
- **Ministry of Finance:** in charge of managing the assets and the budgetary process of the Paraguayan State, as well as the formulation and management of its fiscal policy and internal and external indebtedness.

²⁴ Transparency International (2020). Corruption Perceptions Index [published]. <https://www.transparency.org/en/cpi/2020/index/nzl#>. Access date: 09 July 2021.

²⁵ Americas Quarterly (2020). Anti-Corruption Capacity Index (CCC) [published]. <https://www.americasquarterly.org/the-capacity-to-combat-corruption-index-2020/>. Access date: 09 July 2021.

- **General Audit Office of the Executive Branch:** internal control body under the executive branch that is part of the State's financial administration's control system, whose main task is to conduct audits and to regulate and supervise the functioning of the institutional internal audits.
- **National Directorate of Public Contracting:** body in charge of regulating, disseminating, controlling, verifying and optimizing public contracting, through quality and efficiency processes, aimed at excellence in management.
- **Civil Service Secretariat:** central regulatory body for the civil service; among its main responsibilities is to formulate policy for the management and development of people working in the public sector.

Within the Judicial Branch, the Supreme Court of Justice is the jurisdictional body in charge of judging conflicts brought before it, covering the entire national territory, including cases involving acts of corruption. It is also in charge of controlling and judging public expenditures executed by the OEE, through the Court of Accounts.

There is also the Superintendency of the Judiciary which manages the Office of Complaints and Denunciations. The Superintendency of Banks and the Superintendency of Insurance assist the Secretariat for Prevention of Money Laundering (SEPRELAD) in the performance of its functions.

Oversight bodies are fundamental to the fight against corruption, as long as they are effective and independent, oriented towards social interests and the full guarantee of human rights. From the point of view of the fight against corruption, the rule of law must be seen from the dimensions of horizontal and social *accountability*.²⁶

The objectives of guaranteeing access to public information and improving accountability mechanisms have been continuous components in the agendas of recent years, particularly in the framework of increasingly active demands for a participatory and transparent management of public resources. In this context, oversight bodies are key to improving the quality of government and its capacity to respond to citizen demands. The mission and functions of the control bodies align with the Open Government Partnership (OGP)'s agenda. This is revealed in the growing implementation of innovative policies aligned with the mission principles of open government as strategies for active dissemination of public information, platforms and applications based on open data. These are just some examples of good practices developed by the control bodies to strengthen their links with civil society and contribute to improving the quality of democratic institutions.

SENAC has made significant efforts to effectively strengthen its institutional framework but is in need for further clarification and expansion of its powers in the framework of an organic law that provides it with the real capacity to implement anti-corruption policies, with functional and economic independence, and with the role as the governing body of the State's integrity policy. In conclusion, it requires legislation that gives greater enforceability to its provisions,

²⁶ Although the English term "accountability" is sometimes translated as "rendición de cuentas" in Spanish, its meaning is deeper than merely reporting the use of public money, which is what is commonly understood by "rendir cuentas" in Spanish. The term has the sense of giving an account of how the authority conferred by a social group has been used, and therefore applies to all persons holding elected or appointed positions, whether they are government, municipal, trade union, neighborhood, corporate board members, or the like.

so that they do not become abstract words, accompanied by the financial means adapted to the tasks to be performed.

According to the Annual Public Administration Balance Sheet 2020, published by the Ministry of Finance, the SENAC presents a significant level of budget execution under the heading "services for the fight against corruption".²⁷ Furthermore, it is impossible to identify the fight against corruption as a key indicator in the national General Budget of Expenditures, and in the functional classification.²⁸ It is apparent that 0.4% is allocated to "regulation and control", where it is presumed that the control bodies would fit, so it could be deduced that the high level of budget execution is directly related to the low budget allocated to control tasks.

Moreover, the efforts made by SENAC, through inter-institutional cooperation agreements with institutions that do not depend on the executive branch and whose purpose is to share efforts for a culture of integrity and transparency in the State, are subject to the political will of the authorities in office for their compliance and sustainability over time.

Good practices: The Open Government Partnership that Paraguay joined in 2012 represents a great opportunity to promote the strengthening of accountability systems and the strengthening of control bodies, making available information of utmost value around the performance of public policies. However, it is important to take into account the recommendations regarding the protection of personal data and privacy²⁹ and the gender and intercultural approach.

Deficiencies: Anti-corruption policies and/or agenda have generally been promoted from the executive branch. The challenge remains to enhance more proactive and complementary action on anti-corruption issues from the judiciary, the legislature (including political parties), local governments, civil society and the private sector.

4.1.3 Art. 7.1 - Public sector employment

Significant progress has been made in the process of professionalization in the public administration in Paraguay, with the regulation and implementation of public competitive examinations and merit-based examinations, but meritocracy does not end with public examinations. It is necessary to generate a meritocratic environment where motivation, training and responsibility of administrators are essential.

The civil service profession, also known as the administrative career, is governed by Law No. 1626/2000 "On the Civil Service".³⁰ Its purpose is to regulate the legal status of public personnel serving in the central administration, decentralized entities, departmental governments, municipalities and other State agencies and entities.

The Civil Service Secretariat (SFP) is a body that reports to the Office of the President of the Republic and is responsible for overseeing compliance with Law No. 1626/2000 and promoting

²⁷ Ministry of Finance. Annual Public Administration Balance Sheet 2020. P. 304 [published].

<https://www.hacienda.gov.py/bagp-2020/12-01-presidencia-de-la-republica.pdf>. Date of access: July 09, 2021.

²⁸ The purpose of the classification by purpose and function is to identify the ultimate destination of the expenditures that are made regardless of the economic nature of the agency or entity that is in charge of it.

²⁹ TEDIC. Paraguay Necesita una Ley Integral de Protección de Datos Personales (2019) [published].

<https://www.tedic.org/paraguay-necesita-una-ley-integral-de-proteccion-de-datos-personales/>. Date of access: 09 July 2021.

³⁰ Law No. 1626/00 "On the Civil Service" [published]. <https://www.bacn.gov.py/leyes-paraguayas/1711/ley-n-1626-de-la-funcion-publica>.

the objectives of the civil service through technical standards. Similarly, SFP's policies are in line with the guidelines of the Ibero-American Civil Service Charters (CIFP) and with the purposes of Law No. 977/96 "Approving the Inter-American Convention against Corruption" as well as Law No. 2535/05 "Approving the United Nations Convention against Corruption.

It is imperative that the relevant national authorities (executive, legislative, and judicial branches, where appropriate) make their best efforts to update, correct, and put into effective force a new civil service law that establishes the civil service profession and public employment in general, and that this law does not apply to senior civil servants in the administration. This would definitively eliminate the legal uncertainty and instability that currently surrounds the incomplete and irregular validity of Law No. 1626/2000 on the Civil Service, which has been widely criticized as unconstitutional, and in view of which there is a multiplicity of scattered regulations.³¹

The recently presented reform project³² contemplates, among other things, acts of corruption against the administration as an automatic cause for disqualification from holding public office. However, it should be noted that it was drafted without the active participation and consultation of public officials. Among the various objections to it are the fact that it does not contemplate improvements in relation to the precarious employment of people who are contracted and other modifications that would affect the pension funds.

The professionalization process and the performance evaluation system, although it stands out with regulatory compliance, pays little attention to the culture of quality management, focusing on quantitative indicators without assessing values and the ability to provide or not the services that meet the needs and expectations of citizens, at the lowest possible cost, simplifying procedures, and placing the citizen at the center of public administration by promoting the principles of good governance.³³

Traditional clientelism has considerably affected trust in public servants. Citizens see corruption as the origin of the problems in Paraguay and also attribute the inefficiency of public institutions to it. The placement of personnel in public positions based on their political militancy or kinship, and not on capacity, merit or the specific requirements of an institution, are perceived as acts of corruption. In the experience of those interviewed, the problem is not only the inefficiency of the civil servant that derives from clientelism, but also the fact that in order to be properly attended to, a citizen must rely on friends to help him or her with procedures, often in violation of the rules.³⁴

³¹ See list of institutions, agencies and officials who acted against the law: <https://www.sfp.gov.py/sfp/seccion/104-accion-de-inconstitucionalidad.html>. Date of access: 09 July 2021.

³² Draft Civil Service and Civil Service Career Law (2020) [published]. <https://www.set.gov.py/portal/rest/jcr/repository/collaboration/sites/napuaPy/documents/proyectos/Proyecto%20de%20Ley%20de%20la%20Funcion%20Publica%20y%20el%20Servicio%20Civil.pdf>. Date of access: 09 July 2021.

³³ Since the first Ibero-American Charters promoted by the Latin American Centre for Development Administration (CLAD) in 2003, Paraguay has subscribed to all of them without exception, thus assuming the commitment to implement them in the management and development policies of people working in the public sector.

³⁴ Personal virtual interview with O. Ayala, Executive Secretary of the Coordinadora de Derechos Humanos del Paraguay, 24 March 2021.

In this regard, it is worrisome that the governing body itself is implementing exceptions to the general rule of competitions, regulating administrative acts for hiring by way of exception, contradicting the general rule of competitions.³⁵

The enactment of Law No. 5189/14 “Establishing the mandatory provision of information on the use of public resources on remunerations and other remunerations [...]”³⁶, which the SFP controls in terms of compliance, is a milestone of transparency since it allows citizens to monitor the allocations and remunerations of public servants. Through it, it has been possible to identify emblematic cases of corruption related to salaries, improper use of per diems, and charging fees without provided good services.³⁷

The persistence of a highly fragmented salary system and the opacity of the current remuneration system give rise to arbitrary salary increases, the creation of positions without any institutional need and the use of personal influence to obtain the right to a bonus.³⁸

Along the same lines, the high politicization of positions -defined by law- like those of senior management, the constant rotation of personnel coinciding with changes in government, the persistence of the temporary hiring modality that legitimizes access to public employment in conditions of inequality and discrimination, and the formalistic implementation of performance management, which does not yield reliable and measurable information on the real performance of civil servants, are just some of the obstacles that persist and that delay the effective strengthening of public employment as a strategic condition for good governance.

The process of modifying the Civil Service Law (Law No. 1626/00) with a more comprehensive approach, focusing on the strategic management of people, moving away from the current model of simple control, whose reports and recommendations of the governing body are not binding for the OEE, is transcendental to move towards an efficient and transparent public employment model.

Good practices: Both the Inter-American Convention against Corruption (IACAC), the UNCAC and the Ibero-American Charters of the Latin American Centre for Development

³⁵ Civil Service Secretariat. Resolution No. 794/2019 " Por la cual se amplia el plazo de presentación de solicitudes de excepciones a la doble remuneración, excepción al concurso de méritos [...]" [published]. https://www.sfp.gov.py/sfp/archivos/documentos/resol%20excp%20conc_2ritepz2.pdf; ABC Color (2020). Función Pública confirms anomalies in contracts without competition in the MTESS. <https://www.abc.com.py/edicion-imprensa/economia/2020/05/04/funcion-publica-confirma-anomalias-en-contratos-sin-concurso-del-mtess/>; Ultima Hora (2019). Función Pública dictamina en favor de los aumentos sin concursos. <https://www.ultimahora.com/funcion-publica-dictamina-favor-los-aumentos-concursos-n2800581.html>. Date of access of all three sources: 09 July 2021.

³⁶ <https://www.bacn.gov.py/leyes-paraguayas/2962/ley-n-5189-establece-la-obligatoriedad-de-la-provision-de-informaciones-en-el-uso-de-los-recursos-publicos-sobre-remuneraciones-y-otras-retribuciones-asignadas-al-servidor-publico-de-la-republica-del-paraguay>. Access date: 09 July 2021.

³⁷ ABC Color (2019). Lack of municipal transparency. <https://www.abc.com.py/edicion-imprensa/politica/2019/08/30/falta-transparencia-municipal/>; ABC Color (2020). State companies violate Transparency Law. <https://www.abc.com.py/edicion-imprensa/economia/2020/03/01/las-empresas-del-estado-violan-ley-de-transparencia/>. Date accessed from both sources: 09 July 2021.

³⁸ Ultima Hora (2020). Deputies created four new municipalities amid criticism. <https://www.ultimahora.com/diputados-crearon-cuatro-nuevos-municipios-medio-criticas-n2912552.html>; ABC Color (2020). Tesoro prepara unos US\$ 180 millones para salarios. <https://www.abc.com.py/nacionales/2021/01/24/tesoro-prepara-unos-us-180-millones-para-salarios/>; ABC Color (2020). Sindicatos públicos presionan para que incluyan "aumentos mau" en PGN 2021. <https://www.abc.com.py/nacionales/2020/11/23/sindicatos-publicos-presionan-para-que-incluyan-aumentos-mau-en-pgn-2021/>. Access date for all three sources: July 9, 2021.

Administration (CLAD) have served as frameworks to promote an agenda in the public sector focused transversally on the fight against corruption, the professionalization of the civil service profession, the establishment of competitive examination processes, and the production of new management technologies.

Deficiencias: Clientelism and nepotism continue to be the calling card for accessing jobs in the public sector, despite the implementation of public competitions, especially in senior management positions, defined by Law No. 1626/00 "On Public Service" as positions of trust.³⁹ On the other hand, distrust in public institutions is directly related to the perception of low quality in the administration of public servants.

4.1.4 Art. 7.3 - Political financing

In Paraguay, there have been important advances with the latest amendments to the law on political financing. The new legislation constitutes a challenge in terms of public policies on political financing and shows a path to follow in order to strengthen parties, level the playing field, reduce asymmetries and prevent the entry of money of illicit origin mainly in electoral processes, in which significant inequalities are observed at all levels of electoral participation, both internally within political groups and in general and municipal elections.

A review of the various regulations governing the oversight of political financing shows that a significant part of the provisions was only partially complied with or not implemented at all. Law No. 4743/12⁴⁰ was not applied until 2015, Law No. 6167/18⁴¹ was enacted after the general elections of 2018, and Law No. 6501/20⁴² will have its litmus test in the municipal elections of 2021. However, they mark a step forward in terms of oversight over the origin of the resources that make up political financing. With the amendments introduced, the aim is to enable the traceability of financing, and to combat weaknesses in the process of accountability of political groups.

Law No. 6501/20 establishes that parties, movements, alliances, and their internal movements may not accept contributions or donations from foreign, autarchic or decentralized entities, from persons who are in a condition of administrative subordination or relationship of dependence, from trade unions, anonymous, individual contributions or donations exceeding

³⁹ La Nación (2021). Seccionalero ofrece cargos en Municipalidad de Asunción a cambio de apoyo a Daniel Centurión. <https://www.lanacion.com.py/politica/2021/03/03/seccionalero-ofrece-cargos-en-municipalidad-de-asuncion-a-cambio-de-apoyo-a-daniel-centurion/>; La Nación (2018). Se escudan en cargos de confianza para justificar sus millonarios ingresos. <https://cdn-www.lanacionpy.arcpublishing.com/investigacion/2018/12/12/se-escudan-en-cargos-de-confianza-para-justificar-sus-millonarios-ingresos/>; Paraguay.com (2018). Familia completa de seccionalero luqueño está en la función pública, <https://www.paraguay.com/nacionales/familia-completa-de-seccionalero-luqueno-esta-en-la-funcion-publica-173635>; ABC Color (2019). Seccionaleros in key positions. <https://www.abc.com.py/edicion-impresa/interior/seccionaleros-en-puestos-clave-1750479.html>. Access date of all four sources: 09 July 2019.

⁴⁰ Law No. 4743/2012 "Regulating Political Financing" [published]. <https://www.bacn.gov.py/leyes-paraguayas/1198/regula-el-financiamiento-politico>. Date of access: 09 July 2021.

⁴¹ Law No. 6167/2018 "Which amends several articles of Law No. 834/1996." [published]. <https://www.bacn.gov.py/leyes-paraguayas/8683/ley-n-6167-modifica-varios-articulos-de-la-ley-n-8341996-que-establece-el-codigo-electoral-paraguayo-modificado-por-la-ley-n-47432012-que-regula-el-financiamiento-politico>. Date of access: 09 July 2021.

⁴² Law No. 6501/2020 "Which amends Law No. 4743/2012 "Which regulates political financing, which was amended by Law No. 6167/2018 and amends Law No. 834/1996 "Which establishes the Paraguayan Electoral Code" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9161/ley-n-6501-modifica-la-ley-n-47432012-que-regula-el-financiamiento-politico-que-fuera-modificado-por-ley-n-61672018-y-modifica-la-ley-n-8341996-que-establece-el-codigo-electoral-paraguayo>. Date of access: July 09, 2021.

or equivalent to ten thousand minimum wages for various unspecified activities per year (843.400,000 Gs.⁴³), from persons convicted of crimes under criminal law, especially drug trafficking (Law 1340/98), money laundering (Law 1015/97), human trafficking (Law 4788/2012), terrorism (Law 4024/2010), arms trafficking (Law 4036/2010) and smuggling (Law 2422/2004). In addition, contributions in cash exceeding ten minimum wages (21,928,390 Gs.⁴⁴) must be made with nominative checks or formal transfers in all cases.

Similarly, this new law establishes specific tools and procedures such as the Declaration of Campaign Income and Expenses, which consists of a description made by the candidate about the resources available and their expenses to support his/her campaign, whether they are goods or cash, and their origin. In addition, it establishes the Declaration of Linked Economic Interest, in which the candidate makes a statement about the degree of links with companies, societies, and associations, though without specifying the number of shares, assets or amounts.

The Superior Court of Electoral Justice (TSJE) is the highest electoral authority that regulates, controls, oversees and ensures compliance with electoral activity. The internal body of the TSJE in charge of reviewing the accountability of electoral campaign financing is the Directorate of the Specialized Unit of Political Financing. In addition, the Undersecretariat of State for Taxation (SET) and the Secretariat for the Prevention of Money Laundering and Asset Laundering (SEPRELAD) will assist in the oversight activities carried out by the TSJE within the scope of application of Law No. 6501/20, without prejudice to the powers of the Public Prosecutor's Office. In this regard, both the SET and SEPRELAD are the institutional bodies responsible for reviewing the origin of campaign resources, as are the Office of the Comptroller-General of the Republic and the Public Prosecutor's Office.

With regard to political groupings, the new Act also stipulates those parties, movements, and alliances are obliged to comply with Act 1015/1997⁴⁵, "which prevents and represses illegal acts aimed at legitimizing money or property" (money laundering), for which purpose political groupings with or without legal personality must adopt mechanisms for the oversight and registration of their financial operations with a risk-based approach for effective compliance.

Parties, movements, alliances or political alliances are obliged to submit to the TSJE a balance sheet of income and expenditure, supported by legal proof and an accounting record of contributions or donations indicating the origin of the resources and an annual report on contributions.

The public nature of the statements and declarations received by the TSJE is guaranteed, which is why it must publish all information on its website within the deadline expressly established by Law No. 6501/20, within 10 working días of having received them. Before the elections, the Declaration of Campaign Income and Expenses and the Declaration of Related Economic Interests must be submitted. After the internal elections, the Declaration of Campaign Income

⁴³ Equivalent to USD 125,659.47, according to the quotation established by the Central Bank of Paraguay on 7/June/2021, where the exchange rate of 1 USD corresponds to 6,711.79 guaraníes.

⁴⁴ Equivalent to USD 3,267.14, according to the quotation established by the Central Bank of Paraguay on 7/June/2021, where the exchange rate of 1 USD corresponds to 6,711.79 guaraníes.

⁴⁵ Law No. 1015/1997 "Preventing and repressing illicit acts aimed at legitimizing money or goods" [published]. <https://www.bacn.gov.py/leyes-paraguayas/988/ley-n-1015-previene-y-reprime-los-actos-ilicitos-destinados-a-la-legitimacion-de-dinero-o-bienes>. Date of access: 09 July 2021.

and Expenses and the Detailed Report of Contributions and Donations must be submitted. Finally, at the end of the campaign, the final campaign accountability documents are submitted.

As established in Act No. 6501/20, there are penalties of 10 years suspension from elective office of any kind for those who falsify information or documentation as part of the process of monitoring income and expenditure submitted by the administrator of the party, movement, alliance or coalition. Act No. 4743/12 establishes that, in case of violation of the ceiling in general elections, the penalty is the loss of public funding for 3 to 5 years and the payment of a fine of double the amount exceeded, while in internal elections, a fine of double the amount exceeded is applied. However, no cases of application of these sanctions have been recorded so far.

These amendments to the Electoral Code are considered important innovations, since they establish specific procedures for during and after internal, general and municipal elections, as well as specific sanctions, which constitutes an advance in legal matters of oversight of political financing, complements the existing regulatory framework making it more rigid and emphasizing the traceability of campaign financing as a key element.

Good practices: With the adoption of Law No. 6501/20, the TSJE, as an oversight body, has established new regulations, created digital tools that will facilitate the oversight and monitoring of the financing of political groups, and created the Specialized Control Unit, responsible for carrying out checks on the authenticity, completeness and correspondence of campaign income and expenditure. This law orders the TSJE to include in its organizational chart a unit in charge of policies and procedures for the prevention of money laundering and the financing of terrorism in the financing of electoral campaigns, in accordance with SEPRELAD regulations. In this regard, the TSJE and SEPRELAD have recently signed a cooperation agreement for the oversight of political financing.⁴⁶

Information on the accountability of campaign financing is public in nature. Article 2 of Act No. 6501/20 stipulates that parties, movements and coalitions must submit a documented account of all expenses and income incurred by the campaign and an annexed report on the contributions or donations received for their financing, indicating their origin and amount to the TSJE. The TSJE must order publication on its institutional website, freely available for consultation and with no cost within ten days of receipt.

Furthermore, Article 8 of TSJE Resolution No. 1/2021⁴⁷, which regulates Law 6501/20, establishes that the annual and electoral reports submitted by political groups, as well as the Declaration of Campaign Income and Expenditure and the Declaration of Linked Economic Interest of candidates will be published through the National Observatory of Political Financing⁴⁸ and made freely available for public consultation in open data format.

⁴⁶ Secretary for the Prevention of Money or Asset Laundering (2021). SEPRELAD and the TSJE sign cooperation agreement for the control of political financing [published]. <https://www.seprelad.gov.py/seprelad-y-el-tsje-firman-convenio-de-cooperacion-para-el-control-del-financiamiento-politico-n377>. Date of access: July 09, 2021.

⁴⁷ Resolución TSJE N° 1/2021 "Por la que se reglamentan varios artículos de la Ley N° 834/1996 "Que establece el Código Electoral Paraguayo", referentes al Financiamiento Político, modificado por las leyes N° 4743/2012, N° 6167/2018, N° 6501/2020 y sus concordantes" [published]. <https://www.tsje.gov.py/legislaciones/buscar/>. Date of access: 09 July 2021.

⁴⁸ Superior Court of Electoral Justice [published]. <https://onafip.tsje.gov.py>. Access date: 09 July 2021.

In 2015, the TSJE created an Advisory Commission for the Political Financing Program⁴⁹, made up of specialized and trained officials in the area. The strategic directorates and agencies of the TSJE that make up the Commission are: the General Directorate of Administration and Finance, the Directorate of Legal Counsel, the Directorate of Transparency and Anti-Corruption, the Directorate of Political Parties and Movements, the Directorate of Compilation and Legislation, the Directorate of Contracting Operating Unit, the Directorate of International Relations and Protocol, the Directorate of Information Technology and the Judicial Secretariat of the TSJE. Since its creation, this commission has promoted an effective process of study, research and advice for electoral reforms in this area⁵⁰, and the drafting of rules and regulations. It has also promoted training and dissemination activities with political groups and civil society.⁵¹

With the municipal elections scheduled for October 2021, it is expected that the application of this new law will be effective, promoting transparency, adequate financial and accounting accountability, banking of income and expenditure of organizations and political parties, financial statements of electoral campaigns, guaranteeing the lawful origin of financing, as well as sanctions for misconduct, acts of corruption or illicit financing.

Deficiencies: The enforcement of sanctions is one of the main weaknesses in the oversight of political financing, and its feasibility is related to the capacities of the state to consistently enforce the law.

The application of regulations is arbitrary and there is a lack of legitimacy of the oversight bodies and the justice system. The TSJE as an oversight body does not enjoy sufficient legitimacy. Its highest authorities represent only certain political sectors of traditional parties, which results in a lack of legitimacy and a fragile credibility on the part of the citizenry. Representatives of civil society organizations have warned about the improper use of the regulations for partisan political purposes.⁵²

As a precedent, there is a recent case where an opposition candidate was arrested in the framework of an investigation for falsification of invoices in the presentation of financial statements in the last elections. However, the law establishes that the responsibility falls on the administrator of campaign expenses and not on the candidate. In the end, this case could not be sustained due to a series of contradictions that were questioned by the public, so the candidate was soon released.⁵³

⁴⁹ Superior Court of Electoral Justice. Political Financing [published]. <https://www.tsje.gov.py/financiamiento-politico.html/>. Date of access: 09 July 2021.

⁵⁰ Superior Court of Electoral Justice. Important reforms concerning political financing are foreseen [published]. <https://tsje.gov.py/noticias/leer/8690-preven-importantes-reformas-concernientes-al-financiamiento-politico.html/>. Date of access: 09 July 2021.

⁵¹ Superior Tribunal of Electoral Justice (2021). More than 1900 people were trained in courses promoted by the Directorate of Political Financing [published]. <https://tsje.gov.py/noticias/leer/9055-mas-de-1900-personas-fueron-capacitadas-en-cursos-impulsados-por-la-direccion-de-financiamiento-politico.html>. Date of access: July 09, 2021.

⁵² Última Hora (2021). In the very heart of the TSJE they violate the Financing Law, they argue [published]. <https://www.ultimahora.com/en-el-mismo-seno-del-tsje-violan-ley-financiamiento-sostienen-n2925510.html>. Date of access: 09 July 2021.

⁵³ La Nación (2021). Otorgan libertad ambulatoria al cuestionado Efraín Alegre [published]. <https://www.lanacion.com.py/politica/2021/02/16/otorgan-libertad-ambulatoria-al-cuestionado-efrain-alegre/>. Date of access: 09 July 2021.

Previously, it has been very difficult for civil society to monitor political financing due to the absence of regulations that guarantee the public nature of the information and accountability presented by political groups. However, since this new legislation was implemented, there have been several improvements in terms of access to public information, digital tools for disseminating information, and inter-institutional channels of communication, supervision and oversight, so there is a high expectation from civil society organizations, the media and citizens to contribute to the monitoring of political financing, especially with a view to the upcoming municipal elections.

4.1.5 Art. 7, 8 and 12 - Codes of conduct, conflicts of interest and declarations of assets

Paraguay has not developed legislation that specifically regulates the issue of conflicts of interest. However, there are a few provisions scattered throughout various laws that are related to standards of conduct related to public ethics. More specifically, the constitutional and legal provisions establish rules on incompatibilities and disqualifications of public officials, which could be understood as a preventive framework to avoid situations of conflict of interest.

The main provisions in this regard are regulated by the Constitution, Law No. 1626/2000 "On the Civil Service"⁵⁴ and Law No. 2051/2003 "On Public Procurement".⁵⁵

In fact, the Constitution provides for regulations on incompatibilities and/or disqualifications for the nomination or exercise of public functions by all public officials and for members of the Armed Forces and the National Police, Senators and Deputies, President and Vice-President of the Republic, Ministers of the Executive Branch, Attorney General of the State, Judges and Magistrates of the Judiciary, Ministers of the Supreme Court of Justice, Members of the Council of the Magistracy, Attorney General of the State and Public Prosecutors, Ombudsman, Comptroller General of the Republic in several of its articles (105, 173, 175, 196, 197, 198, 199, 235, 237, 241, 245, 254, 258, 263, 267, 270, 278, 284), and does not refer to incompatibilities and/or disqualifications for the exercise of activities after leaving public office.

The report of the Organization for Economic Cooperation and Development (OECD) on public integrity in the region⁵⁶ also refers to the lack of regulation on conflicts of interest in Paraguay, despite Law No. 2523/2004, which, among other offences, regulates administration for personal gain and prohibitions after taking office, as well as the prohibitions applicable to public officials established in Law No. 1626/2000 on the Civil Service.

However, as discussed in the section on "Public sector employment," it should be noted that Law No. 1626/2000 on the Civil Service does not consider contracted staff, general service staff, senior officials elected by popular vote, and many other high-ranking officials, to be "civil servants or public employees."

⁵⁴ See Law No. 1626/00 "On the Civil Service".

⁵⁵ Law No. 2051/2003 "On Public Procurement" [published]. <https://www.bacn.gov.py/leyes-paraguayas/159/ley-n-2051-de-contrataciones-publicas>.

⁵⁶ OECD (2019). Public Integrity in Latin America and the Caribbean 2018-2019 [published]. <https://www.oecd.org/gov/ethics/integridad-publica-america-latina-caribe-2018-2019.pdf>, pp. 113-114. Access date: 09 July 2021.

With the enactment of Law No. 6716/2021⁵⁷, Article 40 "Prohibitions and limitations to submit proposals or to contract" of Law No. 2051/2003 "On Public Procurement" was amended and expanded, extending the prohibitions and limitations to contract with the State to natural persons who are in any way responsible for business management, provided that the legal entity has been sanctioned by the National Directorate of Public Procurement (DNCP). This provision covers directors, managers, managing partners and all those who hold management positions in the company's administration. Indistinctly, it affects shareholders, quota holders and all those who are owners of legal entities in any way that have been sanctioned by the DNCP. The aforementioned law also modifies the scope of the provisions of Section 72 "Administrative sanction" establishing the exemptions from liability on a case-by-case basis.

In any decision-making context, a person may be subject to a conflict of interest. Public officials are no exception, hence the importance that the laws on public ethics assign to issues such as conflicts of interest and incompatibilities, and in this regard the draft law that prevents and punishes conflicts of interest is currently being reviewed.⁵⁸

With respect to the code of ethics, the participatory drafting of a public ethics law is essential. In general, almost all public institutions have a code of ethics, mainly in the framework of complying with the monitoring framework indicator of the Standard Model of Internal Control for Public Entities of Paraguay (MECIP)⁵⁹. Nevertheless, it is necessary to have a single regulatory framework in order to provide legal certainty to its recipients, developed in an effective, coherent and structured manner based on correctly formulated regulatory precepts in a uniform manner.

The legal framework for sworn asset declarations derives from the National Constitution itself and the laws that regulate it: Law 5033/13⁶⁰ and its amendment, Law 6355/19⁶¹, which establish public servants, whether appointed, hired or popularly elected, magistrates and in general all those who receive remuneration from public funds, including individuals or legal entities, concessionaires who are otherwise linked to the State that receive public funds or carry out activities of public interest, as obligated subjects.

⁵⁷ Law No. 6716/2021 "Amending and expanding Article 40 of Law No. 2.051/2003 "On Public Contracting" and Article 72° amended by 1° of Law No. 3.439/2007 "Amending Law No. 2.051/03 "On Public Contracting" and establishing the Organic Charter of the National Directorate of Public Contracting" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9548/ley-n-6716-modifica-y-amplia-el-articulo-40-de-la-ley-n-20512003-de-contrataciones-publicas-y-el-articulo-72-modificado-por-el-articulo-1-de-la-ley-n-34392007-que-modifica-la-ley-n-205103-de-contrataciones-publicas-y-establece-la-carta-organica-de-la-direccion-nacional-de-contrataciones-publicas>. Date of access: 09 July 2021.

⁵⁸ Legislative Information System. Docket Information. "Which defines, prevents and punishes conflict of interest, expands Law No. 5295/2014 "Which prohibits nepotism in the Civil Service" [published]. <http://silpy.congreso.gov.py/expediente/123226>. Date of access: 09 July 2021.

⁵⁹ Office of the Comptroller General of the Republic. MECIP 2015. [published]. <https://www.contraloria.gov.py/index.php/mecip>. Date of access: 09 July 2021.

⁶⁰ Law No. 5033/2013 "Regulating Article 104 of the National Constitution. On the Sworn Statement of Assets and Income, Assets and Liabilities of Public Officials" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9270/ley-n-5033-reglamenta-el-articulo-104-de-la-constitucion-nacional-de-la-declaracion-jurada-de-bienes-y-rentas-activos-y-pasivos-de-los-funcionarios-publicos>. Date of access: 09 July 2021.

⁶¹ Law No. 6355/2019 "Amending Articles 1°, 3°, 4°, 7°, 13 AND 21 of Law No. 5033/13" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9019/modifica-los-articulos-1-3-4-7-13-y-21-de-la-ley-n-503313-que-reglamenta-el-articulo-104-de-la-constitucion-nacional-de-la-declaracion-jurada-de-bienes-y-rentas-activos-y-pasivos-de-los-funcionarios-publicos-y-amplia-las-disposiciones-de-la-ley-n-205103-sus-modificaciones-y-normas-respaldatorias>. Date of access: 09 July 2021.

Similarly, shareholders, directors, managing partners or similar of companies and entities that are contractors or concessionaires of the State, as well as any person or legal entity that in any way contracts, provides a service or performs a work for the State, under any of the legal modalities provided for, must submit a sworn asset declaration. Proof of submission of a sworn declaration of assets, income, and liabilities is a requirement for the submission of bids in the process of concessions and in the contracting of public works, leases or services.

The obligated parties shall submit their sworn statement of property and income, assets and liabilities within 15 (fifteen) days of its completion and within the same term at the end of the same. In case of failure to submit the sworn declaration of property, income, assets and liabilities, administrative inquiries can lead to the the imposition of financial penalties. The CGR's accountability report for 2020 reports that there were 191 administrative inquiries, 42 conclusive resolutions and 139 rulings for non-compliance with Article 2 of Law 5033/13 regarding sworn asset declarations.⁶² The CGR is also empowered to forward background information to the Public Prosecutor's Office and the competent jurisdictional bodies, when the results obtained in their monitoring controls reveal indications of irregularities or illicit enrichment, so that they can initiate the corresponding proceedings.

Several legal actions were brought against Law 6355/19 on the grounds that it was contrary to and violated several articles of the national constitution, and the Supreme Court of Justice's constitutional chamber ruled on them, ordering the suspension of the effects of the law as a precautionary measure until such time as a ruling is handed down.⁶³

Regarding the availability of such information, it is important to mention that the sworn asset declarations have been public only as of 2020 through a ruling of the Constitutional Chamber of the Supreme Court of Justice (CSJ), which ordered the Comptroller General of the Republic to publish those sworn asset declaration of public officials that were submitted between 1998 and 2017.⁶⁴

This ruling rejected an action of unconstitutionality brought by the Comptroller's Office in 2017. In the chapter on access to information of this report, one of the shortcomings of the law mentioned is the fact that the burden of express denials or tacit denials of information is put on the applicant.

In the case of sworn asset declarations, a journalist appealed the express denial by the Comptroller's Office to access such information, where he obtained a favorable ruling in the first instance. The then comptroller raised an action of unconstitutionality on this judicial resolution that was rejected by the full court. However, three years later the judiciary opened up the legal means for all data from 1998 to 2017 to be published on the Comptroller's Office's website. However, the current law remains a stumbling block that allows such declarations to

⁶² Annual Report (2020) of the Office of the Comptroller General of the Republic [published]. <https://www.contraloria.gov.py/index.php/la-cgr/memorias/file/29254-memoria-cgr-2020>, p. 108. Date of access 09 July 2021.

⁶³ Unconstitutionality Action brought by Nuevo Horizonte Ambiental et al. v. Article 1 numeral 2 of Law 6355/19 "which modifies various articles. of law 5033/13 "Which regulates Art. 104 of the National Constitution". File no. 1412, year: 2020.

⁶⁴ Supreme Court of Justice. AyS No. 111/2020 "Action of Unconstitutionality brought by the Office of the Comptroller General of the Republic in the case entitled: "Amparo Constitucional promovido por Juan Carlos Lezcano Flecha c/Controller General of the Republic" [published]. <https://www.pj.gov.py/descargas/AYS-111.pdf>.

be published only with a court order. Thus, the sworn declarations after the ruling have not been made public to date (from 2018 onwards).

In the chapter dedicated to Paraguay regarding the implementation and transparency of asset declarations and financial disclosure in its 45th annual report on human rights and fundamental freedoms for 2020, the U.S. Department of State states: *"The constitution requires all public employees, both elected officials and employees of independent government entities, to declare their income and assets within 15 days of assuming office or being appointed, and again within 15 days after the conclusion of their term of office or termination of their duties. Public employees must also declare the assets and income of their spouses and dependent children. As there is no requirement for them to file such declarations during their time in office, it was normal for public officials to hold office for years without updating their income and asset declarations. The law prohibits public employees from holding government office for up to 10 years for failure to comply with financial disclosure laws, but this was generally not enforced. Legislators generally ignored the law with impunity and used political immunity to avoid investigation or prosecution. The Office of the Comptroller General of the Republic failed to investigate cases involving compromising financial information."*⁶⁵

Good practices: The Regulatory Decree of Law No. 6524/2020, which declared a state of emergency in the face of the COVID-19 pandemic, has innovatively included an article that establishes preventive measures against conflicts of interest that may arise in the administration of the resources authorized by the aforementioned law. These are published in open data format on the portal www.rindiendocumentas.gov.py,⁶⁶ also providing for sanctions related to non-compliance.

Although the codes of ethics are scattered, without normative synergy, most of the institutions have codes of conduct within the framework of the MECIP. As for the sworn asset declarations, the level of compliance and presentation is also positive and their publication undoubtedly represents a significant achievement for transparency, although it is limited in time (only until 2017).

Deficiencies: The lack of specific regulation on conflicts of interest, in line with international recommendations, as well as the fact that asset declarations of obliged subjects were only made public after a court order for specific years but not others.

4.1.6 Art. 8.4 and 13.2 – Reporting mechanism and whistleblower protection

In the Executive Branch, SENAC has a complaints portal: <https://www.denuncias.gov.py/ssps/>. This portal makes it possible to report alleged acts of corruption affecting public institutions, committed by officials of the executive branch and institutions that have signed an agreement with SENAC.

⁶⁵ U.S. Department of State (2021). Country Reports on Human Rights Practices [published]. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/paraguay/>. Accessed: 09 July 2021.

⁶⁶ Investment Map. Module COVID-19 Paraguay. Affidavits [published]. <https://www.rindiendocumentas.gov.py/Covid/Declaraciones/>. Date of access: 09 July 2021.

While the Public Prosecutor's Office has a Witness Protection Directorate⁶⁷ in the judicial sphere, the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC) has made repeated recommendations to the State to move forward with regulations that meet the highest standards of international protection by strengthening the systems for protecting public servants and private citizens who report acts of corruption in good faith.

In this regard, the measure suggested by the Committee is: *"Adopt a comprehensive regulation on the protection of public servants and private citizens who report acts of corruption in good faith, including the protection of their identity, through the appropriate authority and in accordance with the Constitution and the fundamental principles of the domestic legal system [...]"*.⁶⁸

Currently, with the increase in crime and the rise of organized crime, victims and witnesses have been reluctant to cooperate with the justice system due to the absence of security and protection mechanisms to ensure that their cooperation will not involve any risk to their lives or those of their relatives, in addition to the high levels of perceived impunity.⁶⁹

Although the program of accompaniment and protection of witnesses and victims in criminal proceedings has the power to implement security measures under Article 9 of Law No. 4083/11⁷⁰, it has limited infrastructure and budget to deal with such support in practice, and its scope of application is limited only to criminal proceedings.

Adequate mechanisms must be put in place to protect whistleblowers and witnesses of punishable acts of public corruption of great social impact, as well as acts of corruption in the administrative sphere that have not yet entered the criminal justice system.

A cause for concern is the existence of a generalized pattern of using the criminal justice system to persecute and intimidate journalists who investigate acts of corruption through the criminal offenses of slander, defamation and libel (Criminal Code arts. 150 to 156), which are systematically used by politicians and even judges and other public figures. At least three lawsuits have been filed against a well-known Paraguayan journalist⁷¹ for investigative reporting on corruption and related crimes.⁷² Along the same lines, selective criminalization

⁶⁷ Public Prosecutor's Office. Dirección de Protección a testigos [published]. <https://ministeriopublico.gov.py/direccion-de-proteccion-a-testigos->. Date of access: 09 July 2021.

⁶⁸ Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (2015). Twenty-fifth Meeting of the Committee of Experts [published]. http://www.oas.org/36uridico/PDFs/mesicic5_pry_resp.pdf, pages 35-36. Date accessed: 09 July 2021.

⁶⁹ ABC Color (2020). Crime in Pilar occurs amid fuel milking mafia [published]. <https://www.abc.com.py/nacionales/2020/08/21/crimen-en-pilar-ocurre-en-medio-de-la-mafia-del-ordene-de-combustibles/#>. Date of access: 09 July 2021.

⁷⁰ Law No. 4083 "Which creates the program of accompaniment and protection for witnesses and victims in criminal proceedings" (2011) [published] <https://www.bacn.gov.py/>.

⁷¹ J. Lezcano. Lawyer, journalist specializing in corruption investigations (ABC Color). Personal virtual communication. March 16, 2021.

⁷² ABC Color (2020). Lawsuit against journalist is part of a systematic attack on freedom of expression, says Santagada [published]. <https://www.abc.com.py/nacionales/2020/09/25/querella-a-periodistas-es-parte-de-un-ataque-sistemico-a-la-libertad-de-expresion-afirma-santagada/>; La Nación (2021). Presan dos nuevas querellas contra Natalia Zuccolillo y el periodista Juan Carlos Lezcano [published]. <https://www.lanacion.com.py/judiciales/2021/06/09/presentan-dos-nuevas-querellas-contra-natalia-zuccolillo-y-el-periodista-juan-carlos-lezcano/>; ABC Color (2021). Juicio de ex senador contra periodista de ABC se difiere

and the application of administrative punitive law persist, with the aim of disciplining human rights defenders who denounce, among other things, acts of corruption.⁷³

In the joint submission to the 38th session of the UPR Working Group's UN Universal Periodic Review in 2020, Civicus and Semillas para la Democracia state in point 3.7 of the report⁷⁴: *"Journalists, particularly when reporting on protests, organized crime, corruption and human rights abuses, face threats, intimidation and physical attacks from both state and non-state actors. In March 2019, for example, a photojournalist was assaulted by police during a land eviction, and his camera was intentionally damaged to stop him from photographing the proceedings. Numerous journalists have been subjected to smear campaigns instigated in the public sphere, harassment by politicians and their supporters, and attacks on social media; they have suffered raids and theft of documentation, they have been fired for expressing critical views, and they have been assaulted by protesters and injured by security forces while covering protests."*

The National Anti-Corruption Secretariat, with the support of the United Nations Office on Drugs and Crime (UNODC)⁷⁵, initiated a process of public dialogue on the issue in 2019, but to date no progress has been made in the presentation of a draft law for review.

Good practices: The SENAC anti-corruption complaints portal has recently incorporated the possibility of making anonymous complaints with the express clarification of the protection of personal data as a protection measure as a good practice in accordance with the provisions of the UNCAC (Article 33).

The Ministry of Health has a Manual of Tools for Transparency and the Fight against Corruption that allows for the declaration of nullity of dismissals or dissociations of officials of this State portfolio in cases related to acts of corruption.⁷⁶

Deficiencies: Persecution persists with the aim of intimidating human rights defenders and journalists who investigate acts of corruption. On May 5, 2021, the Paraguayan State rendered accounts on the human rights situation in the framework of the Universal Periodic Review

[published]. <https://www.abc.com.py/nacionales/2021/05/24/juicio-de-exsenador-contra-periodista-de-abc-se-difiere/>. Date of access of all three sources: 09 July 2021.

⁷³ La Nación (2021). Fiscalía pide condenar a Esther Roa por violar cuarentena y multa de 300 jornales [publicado] <https://www.lanacion.com.py/judiciales/2021/08/27/fiscalia-pide-condenar-a-esther-roa-por-violar-cuarentena-y-multa-de-300-jornales/>. Access date: 29 September 2021.

⁷⁴ Civicus and Seeds for Democracy (2020). Joint Submission to the United Nations Universal Periodic Review 38th session of the UPR Working Group [published]. <https://www.semillas.org.py/biblioteca/presentacion-conjunta-al-examen-periodico-universal-de-las-naciones-unidas-38a-sesion-del-grupo-de-trabajo-epu/>. Access date: 09 July 2021.

⁷⁵ National Anti-Corruption Secretariat (2019). Anteproyecto de Ley de Protección a Denunciantes y Testigos [published]. <https://senac.gov.py/index.php/noticias/anteproyecto-de-ley-de-proteccion-denunciantes-y-testigos>. Date of access: 09 July 2021.

⁷⁶ Ministry of Public Health and Social Welfare. Transparency Toolkit and the Fight against Corruption (2017) [published]. <http://portal.mspbs.gov.py/mecip/wp-content/uploads/2017/03/Final-Transparency-Tools-Handbook.pdf>. Access date: 09 July 2021.

(UPR)⁷⁷, during which it received 210 recommendations, among which several countries urged the State to improve its protection of human rights defenders and journalists.⁷⁸

4.1.7 Art. 9.1 - Public procurement

The UNCAC calls for the establishment of appropriate systems of public procurement based on the fundamental principles of transparency, competition and objectivity in decision-making.

Paraguay has one of the most modern open public procurement systems⁷⁹, with the National Directorate of Public Procurement (DNCP) being one of the pioneering institutions in the implementation of active transparency.⁸⁰ The public procurement portal provides a detailed insight into how different state institutions make purchases, with the ability to track the different stages which are classified in the portal: planning, calls for tenders, awards, contracts, and contract modifications.

The Transparency in Public Procurement Index (ITCP) gave Paraguay a total score of 82.78/100 in 2019, placing it in third place in the Legislative Transparency Index⁸¹, with the measurement indicators being the uniformity of the regulatory framework, efficiency, transparency, accountability, and competitiveness and fairness.

Having identified the shortcomings and difficulties in the current regulatory framework for preventing, detecting, and combating corruption, the process of reforming the public procurement law, promoted by the government itself, is important given that public procurement is currently not only of economic, political, and social importance, but is also key for all societies in order to effectively combat corruption. The current law does not give special relevance to the ethical conduct of the actors in the public procurement system; there is a lack of knowledge of the background of the people who make up the bid evaluation committees; companies are created solely and exclusively to participate in tenders without having the experience or dedication to the area being tendered; there is a lack of clarity regarding situations that would prevent a person or company from contracting with the State; there is a lack of strictness in the legislation regarding sanctions for persons or companies that fail to comply with their contractual obligations; and there have been several poorly executed contracts. In addition, the current legislation does not take into consideration open data. Also, the tenders currently excluded from the application of the procurement law escape citizen control and monitoring, as they are not published in their entirety, the DNCP has low capacity for the

⁷⁷ The UPR is a process through which - on average every five years - the human rights reports of all 193 UN Member States are reviewed. The data is compiled from reports provided by States themselves, information collected through UN agencies and mechanisms, inputs from national human rights institutions and reports from civil society organizations. This State-led process, under the auspices of the Human Rights Council, provides an opportunity for each State to state what steps it has taken to improve the human rights situation in the country and to fulfil its human rights obligations.

⁷⁸ ABC Color (2021). Paraguay received 210 recommendations on human rights at the UN [published]. <https://www.abc.com.py/internacionales/2021/05/07/paraguay-recibio-210-recomendaciones-sobre-derechos-humanos-en-la-onu/>. Date access: 09 July 2021.

⁷⁹ Dirección Nacional de Contrataciones Públicas [published]. <https://www.contrataciones.gov.py/>. Access date: 09 July 2021.

⁸⁰ TEDIC (2017). Open public procurement data [published]. <https://databootcamp.tedic.org/datos-abiertos-de-la-direccion-nacional-de-contrataciones-publicas/>. Access date: 09 July 2021.

⁸¹ TEDIC (2019). Transparency in Public Procurement Index (ITCP) [published]. <https://www.tedic.org/investigacion/indice-de-transparencia-de-contrataciones-publicas-itcp/>. Access date: 09 July 2021.

processing and analysis of data on public procurement; and it is difficult to access information of interest according to the type of user (seller, buyer, press, researcher, etc.).

The bill presented includes the following main innovations: a) modernization of the principles and concepts of public procurement; b) comprehensive overview of public procurement; c) adjustment of the institutional framework of the national public procurement system; d) prevention of conflicts of interest; e) mandatory joint procurement (strategic public procurement); f) risk analysis; g) active citizen participation; h) new concept of awarding bids (leaving behind the concept of lower price for greater effectiveness and efficiency); i) greater legal security and strengthening of the procurement information system as a management and transparency tool.⁸² At the close of this report, the process was at the stage of consultation with different social actors: the media, academics, public institutions, the private and business sector, and civil society.

Despite the efforts of active transparency, many institutions - especially the Ministry of Health – were involved in acts of corruption in public procurement processes in the context of COVID-19. One example is the "Chinese supplies" case, described as the largest case of corruption in public procurement in a pandemic, where the Ministry of Health tendered supplies for beds and protective equipment through a contracting process by exception in the framework of the "unpostponable urgency" framework.⁸³ Both the CGR and the National Directorate of Public Contracting (DNCP) agreed - as a result of their audit and administrative investigations respectively - that the awarding of the tender had been rigged, thus violating the principle of equality. The case was referred to the Public Prosecutor's Office, where to date there is still no definition of how the investigation will be conducted.

In the context of COVID-19, transparency and accountability are relevant to increase social trust, but they are not enough, since social discontent continues to grow in Paraguay and the basis of the current crisis includes corruption, the spread of poverty and the weakening of the health system, a situation that already existed but was exacerbated by the pandemic. This led to the creation of a special commission to conduct investigations called the "Special Commission for the Supervision and Control of COVID-19 Purchases " at the request of the Executive Branch, in addition to a bicameral commission of a transitory nature, for the control of resources of the Health Emergency Law, at the request of the Legislative Branch.⁸⁴

The challenges of post-COVID-19 public procurement in Paraguay should focus on the effectiveness of public spending and the participation of micro, small and medium-sized enterprises (MSMEs) and we should not lose sight of the fact that economic recovery plans

⁸² National Directorate of Public Contracting (2021). Ejecutivo presenta proyecto para nueva Ley de contrataciones públicas [Published]. <https://www.contrataciones.gov.py/noticias/319.html>. Date of access: 09 July 2021.

⁸³ ABC Color (2021). De los insumos chinos a la crisis del oxígeno [published]. <https://www.abc.com.py/nacionales/2021/04/12/de-los-insumos-chinos-a-la-tesis-del-oxigeno/>; ABC Color (2021). A year after the case of the Chinese inputs, the attempted scam goes unpunished [published]. <https://www.abc.com.py/nacionales/2021/04/18/a-un-ano-del-caso-de-los-insumos-chinos-intento-de-estafa-sigue-impune/>. Date accessed of both sources: 09 July 2021.

⁸⁴ Decree No. 3522, dated May 6, 2020, whereby the special commission for supervision and control of purchases COVID-19 (CESC) is constituted to accompany the Ministry of Public Health and Social Welfare and State Agencies and Entities in the procurement processes of goods and supplies necessary for the state of emergency declared by Law No. 6524/2020 and complementary transparency measures are established [published]. <https://www.mspbs.gov.py/dependencias/portal/adjunto/b0169e-DecretoN3582ComisinEspecialdeSupervisionyControldeComprasCOVID19.pdf>. Date of access: 09 July 2021.

will be channeled through them, where citizen demands will have to be resolved effectively and efficiently.

Finally, continuing to strengthen electronic public procurement, blockchain technology and the use of artificial technology, together with strategic, socially responsible and sustainable public procurement, can contribute to the implementation of public policies and the improvement of government management processes in different sectors. This will also help advance towards the goal of achieving the operation of a more modern, agile and efficient public administration, at the service of the administered, through the simplification and automation of administrative procedures.

Good practices: Decree No. 3582 of May 2020 established the Special Commission for the Supervision and Control of COVID-19 Procurement to accompany the Ministry of Public Health and Social Welfare and State Agencies and Entities in the procurement processes of goods and supplies necessary for the State of Emergency declared by Law No. 6524/2020, and established complementary transparency measures.

Through Resolution No. 1890/20, the National Directorate of Public Procurement (DNCP) updated the regulation on the estimation of reference prices in public procurement procedures, and made a guide for the elaboration of reference prices available to the entities, in order to make the processes linked to the public procurement system even more transparent. All documents relating to the methodology used for estimating reference prices must be published on the DNCP website.

The DNCP launched a call for tenders to include micro, small and medium-sized businesses dedicated to the manufacture of national and/or innovative products to its virtual store, as one of the actions linked to its sustainable public procurement policy.

The virtual store is a tool that offers greater efficiency, avoiding numerous independent processes for the purchase of the same good. The DNCP is currently undergoing a modernization process and is evaluating the incorporation of a new technological solution that will allow it to manage its current and future framework agreements in an agile and flexible way, creating better business opportunities for the State, suppliers and citizens.

Deficiencies: Despite recorded good practices, public procurement remains one of the government activities most vulnerable to corruption. Given the interaction between the public and private sectors in the process, public procurement presents a number of opportunities for both public and private actors to divert public funds for private gain.

The DNCP itself identified the following as weaknesses of the current regulatory framework: irrelevant sanctions for those who do not comply with the agreement, companies that are created only to supply the State, the low guarantee of quality of the products provided, and relaxed deadlines for suppliers to execute contracts. The system is designed to select the cheapest offer without being able to judge the quality of the product or service.⁸⁵

⁸⁵ Personal telephone interview with Seitz P., National Director of the National Public Procurement Directorate, June 5, 2021.

4.1.8 Art. 9.2 - Management of public finances

In this extraordinary time with the emergence of the COVID-19 pandemic and the resulting emergency context, the demands on the role of the public administration to promote transparency and integrity policies that strengthen this trust increased, which required quick and agile responses from the State. Thus, the creation of the portal www.rindiendocumentas.gov.py, which allows for the monitoring of the management of public institutions and an interactive map of investments "Covid-19 Module"⁸⁶ was a welcome development.

The COVID-19 pandemic deepened the crisis of the Paraguayan economic system. The general isolation measures decreed in the context of the health emergency paralyzed the economy during the first months of 2020 in a general way and then gradually; however, the negative impact on economic and labor activity persists to date.

In the chapter that analyzes the country's economic situation, the annual report of the Human Rights Coordinator of Paraguay states: *"[...] Problems of sustainability of public finances arise due to the accelerated recent public indebtedness and the growing payment of debt services, the low tax burden and the fiscal adjustment since 2014. All these variables were exacerbated by the Health Emergency Law and its emergency fund based on external public credit".*⁸⁷

Although Paraguay has implemented innovative technological tools for transparency, these are not exactly accompanied by an adequate oversight framework in the institutions. The Ministry of Finance makes the stages of formulation, elaboration, consolidation and approval of the budget, as well as the nation's current general budget, public debt, debt projection, budget availability, among others, available in open data.⁸⁸ On the same page you can find public information regarding the budget by results.⁸⁹ The tool also contains a citizen budget report that aims to make the complex budgeting technique available in simple terms.

The International Budget Partnership's Open Budget Survey (OBS)⁹⁰ states: *"Government budget decisions - what taxes to raise, what services to provide and how much debt to take on - affect how equal a society is and the well-being of its people, including whether the most disadvantaged will have real opportunities for a better life. It is essential that governments inform and involve the public in these vital decisions that affect their lives."* However, Paraguay scored only 46/100 on budget transparency, merely 6/100 on public participation and only 50/100 on budget oversight. As for the recommendations resulting from the report are, among other things: *"To strengthen the independence and improve the oversight of the Paraguayan Office of the Comptroller General's audits, the following actions are recommended: Ensure that the supreme audit institution has adequate funding to carry out its functions, as determined by an independent body (e.g., the legislature or judiciary); ensure that audit processes are*

⁸⁶ Accountability Platform. Investment Map. Module COVID-19 Paraguay [published]. <https://www.rindiendocumentas.gov.py/>. Access date: 09 July 2021.

⁸⁷ Molinier, Lila (2020). Paraguay faces the crises with more debt. In CODEHUPY (Ed.) Derechos Humanos en Paraguay 2020 (17-43). Asunción, Paraguay; Codehupy.

⁸⁸ Ministry of Finance. Open Data Portal [published]. <https://datos.hacienda.gov.py/data>. Access date: 09 July 2021,

⁸⁹ Ministry of Finance. Presupuesto por Resultado PPR [published]. <https://ppr.hacienda.gov.py/>. Date of access: 09 July 2021.

⁹⁰ Open Budget Survey (2019). Open Budget Survey 2019: Paraguay [published]. <https://live-international-budget-partnership.pantheonsite.io/open-budget-survey/country-results/2019/paraguay>. Access date: 09 July 2021.

reviewed by an independent agency." The report further notes that in terms of budget transparency and accountability, the government of Paraguay has provided only partial information. With regard to the oversight of budgetary resources, the degree of oversight was limited. Meanwhile, citizen participation in the oversight of budgetary resources has been minimal.

In the context of the pandemic, the International Budget Partnership also conducted an analysis of the management of 120 countries of transparency, oversight and public participation in COVID 19 social assistance packages. In relation to Paraguay, the results do not reflect a substantial evolution compared to the last open budget report published in 2020, which showed considerably low scores.⁹¹

Law No. 1535/99 "On Financial Administration of the State"⁹² regulates the budget, the administration of funds, public credit, accounting and financial control.

The Integrated System of Financial Administration of Public Resources (SIAF-RP) is a single system of records for the use of public resources. It is an extremely important computerized management tool because it records information on the institution's revenues and expenditures, provides reports and management statements for oversight, and its use is a mandatory requirement for people working in the areas of administration, budget, logistics, accounting, treasury, and all the areas that make up the budgetary and financial management process, from the entry of the file to payment to the supplier. It should be noted that this subset of modules records both income and expenses, budgets and their modifications, the schedule of commitments to be paid and the progress of goals is monitored, among other functions. Thus, the executing units use these modules to record their expenditure and income operations, account for them and send the information to the governing bodies.⁹³

Paraguay's Governmental Author's Manual takes standards of ethical agreements and commitments, the development of human talent and protocols of good governance into consideration as its oversight framework.⁹⁴ The latter is one of the components evaluated through the Standard Model of Internal Control for Public Institutions of Paraguay (MECIP) and that continues to yield poor results in the institutions, according to the results published on the CGR's website.⁹⁵ The 2019 report states that 70% of the 300 institutions evaluated received a "deficient" rating.⁹⁶

⁹¹ Open Budget Survey (2020). Accountability in managing money COVID 19 [published]. <https://internationalbudget.org/covid/>. Access date: 09 July 2021.

⁹² Ley N° 1535 De Administración Financiera del Estado" [published]. <https://www.bacn.gov.py/leyes-paraguayas/3000/ley-n-1535-de-administracion-financiera-del-estado>.

⁹³ Ministry of Finance. Sub Secretary of State for Financial Administration [published]. <https://www.hacienda.gov.py/sseaf/>. Date of access: 09 July 2021.

⁹⁴ Office of the Auditor General of the Executive Branch, Threshold Program 2008. Government Auditing Manual [published]. <https://www.agpe.gov.py/index.php/manuales.html>. Date of access: 09 July 2021.

⁹⁵ Office of the Comptroller General of the Republic. Reports on minimum requirements standards 2020 [published]. <https://www.contraloria.gov.py/index.php/actividades-de-control/informes-nrm-mecip2015/category/4982-2020>; ABC Color (2019). Deficiente control interno favorece el robo en instituciones públicas [published]. <https://www.abc.com.py/edicion-impresa/editorial/2019/10/14/deficiente-control-interno-favorece-el-robo-en-instituciones-publicas/>. Date of access of both sources: 09 July 2021.

⁹⁶ Ultima Hora (2020). Informe señala que Hacienda endeudó ignorando al BCP [published]. <https://www.ultimahora.com/informe-senala-que-hacienda-endeudo-ignorando-al-bcp-n2902993.html>. Date of access: July 09, 2021.

The government should commit to implementing the basic components of financial management, such as performance evaluation, implementation of the SIAF, reporting by decentralized entities, and recording of all liabilities, all of which are provided for in Law No. 1535/99 "On Financial Administration of the State. Similarly, the parliament should respect the provisions on budgeting; in turn, the introduction of medium-term macroeconomic budgeting guidelines would contribute to more realistic budgeting and the achievement of fiscal objectives.

Good practices: The publication of the budget execution, and budget by results and in open data, mainly in the context of the COVID 19 health emergency, has allowed for greater transparency in the management of public resources.

Deficiencies: Despite the availability of portals with open data and extensive regulatory development, institutional weaknesses in terms of a weak culture of integrity and a poor internal monitoring framework persist. The result is that at least 68% of public administration institutions evaluated in 2020 in the framework of the MECIP (410 institutions of which 280) have an "inefficient" rating in their Internal Control Systems (ICS), according to the CGR report, published in the ENIT's country report.⁹⁷

4.1.9 Art. 10 and 13.1 - Access to information and the participation of society

Active transparency is the minimum information that must be available to citizens, without the need for any request. All public institutions are required to publish minimum information (personnel annex, salaries, position, seniority, compliance with hours, benefits, per diems) on their web portals, in accordance with the provisions of Law No. 5189/2014 "Which establishes the mandatory provision of information on the use of public resources on remuneration and other remuneration assigned to public servants of the Republic of Paraguay" and whose monitoring of compliance is the responsibility of the Civil Service Secretariat.⁹⁸

In addition, Law No. 5282/14 "On free access to public information and government transparency"⁹⁹ contains provisions on active transparency (Articles 8 to 12). In this regard, Decree No. 4064/2015 designates the SENAC as the institution responsible for monitoring compliance with that law within the Executive Branch.¹⁰⁰ In 2019, SENAC made the Active Transparency Monitoring Panel available to citizens, where it monitors at least 90 institutions on a monthly basis under the following criteria: access to information, public procurement, institutional management, regulatory framework, internal organization, budget and human talent. Between October 2019 and October 2020, a compliance level of 68% was reported,

⁹⁷ National Integrity and Transparency Team. TNA (2020). Integrity and Transparency. Country Report [online]. <https://nube.senac.gov.py/s/BJoks4gfjc4xmdd#pdfviewer>, page 57. Accessed: 09 July 2021.

⁹⁸ Civil Service Secretariat. Monitoring of Law No. 5189 [published]. <https://www.sfp.gov.py/sfp/seccion/65-monitoreo-de-la-ley-518914.html>. Date of access: 09 July 2021.

⁹⁹ Ley N° 5282/2014 "De Libre acceso ciudadano a la información pública y transparencia gubernamental" [publicado]. <https://www.bacn.gov.py/leyes-paraguayas/3013/libre-acceso-ciudadano-a-la-informacion-publica-y-transparencia-gubernamental>.

¹⁰⁰ Decree No. 4064 of 17 September 2015. Regulating Law No. 5282/2014 on free citizen access to public information and government transparency [published]. <http://digesto.senado.gov.py/detalles?id=8936>.

which has in the meantime increased to 90%. The panel is based on objective measurements based on the specific indicators of active transparency required by the law.¹⁰¹

As for passive transparency (where information is issued only upon request), the Ministry of Justice is the governing body, through the Unified Portal of Access to Public Information¹⁰², according to the provisions of Articles 12 and 13 of Decree 4064/15 "By which law No. 5282/14 is regulated [...]". As for the scope, access to this portal is free and without any need to justify the reasons for which such information is requested.

Through the Transparency Law, emblematic cases of corruption were brought to light, allowing for the prosecution of high-level officials who used public money and influence for personal gain.¹⁰³

Regarding the legal framework, a notable obstacle is that Law No. 5282/2014 leaves the responsibility of appealing express or tacit refusal on the citizenry requesting information of access to public information (Articles 23 and 24), which although processed through the constitutional guarantee of amparo implies costs for the applicant in terms of time and money. As of the date of preparation of this report, there were at least 110 legal cases for express or tacit denial of access to information.¹⁰⁴

The gender gap is also evident in the exercise of access to information. Data without disaggregation and without objective quality allow perpetuating stereotypes, hiding the participation and activity of women. There is an urgent need to create indicators that make visible the differences and gender gaps in situations that affect men and women very unequally.¹⁰⁵

A revealing example of the importance of citizen participation - which brings the human rights approach to enforceability - is given in the context of a project implemented by civil society organizations for the promotion of access to public information in 2019, with an intercultural approach that allowed communities and indigenous peoples to be real actors in democracy, exercising citizenship, demanding their rights from the authorities, and exercising control over the decisions that affect them.¹⁰⁶

¹⁰¹ National Anticorruption Secretariat. Transparencia Activa control panel [published]. <https://app.powerbi.com/view?r=eyJrIjoiaMmJlYjYjYzgtMmQ3Mi00YzVkLWJkOTQOTe3ZTZkNzVhYTZlZm91ZDZDUwYjY5LTE5MGQtNDkxYy1hM2U1LWEyYWRlYmMxYTg3NSJ9>. Date of access: July 09, 2021.

¹⁰² Ministry of Justice. Portal Unificado de Acceso a la Información Pública [published]. <https://informacionpublica.paraguay.gov.py/portal/>. Date of access: 09 July 2021.

¹⁰³ IDEA (2020) Second spring of information. Time of consolidation of republican values, [published]. <https://www.idea.org.py/2020/06/18/segunda-primavera-de-la-informacion-tiempo-de-consolidacion-de-los-valores-republicanos/>. Access date: 09 July 2021.

¹⁰⁴ Supreme Court of Justice. Access to Public Information and Transparency. AIP trials in Paraguay [published]. <https://www.pj.gov.py/descargas/transparencia/cuadro-de-casos-judiciales-AIP-ley-5282-14.pdf>. Date of access: 09 July 2021.

¹⁰⁵ TEDIC (2018). Women's online rights. Report card Paraguay [published]. <https://www.tedic.org/investigacion/derechos-en-linea-de-la-mujer-reporte-de-calificaciones-paraguay/>. Access date: 09 July 2021.

¹⁰⁶ Tierra Viva a los Pueblos Indígenas del Chaco (2019). Promoting Transparency and the right of access to public information from intercultural proposals of indigenous peoples of Paraguay [published]. <http://www.tierraviva.org.py/projects/demo/>. Date of access: 09 July 2021.

Currently, the conditions for effective citizen participation have not been facilitated at the national level. Civic space tends to be repressed, violating the rights of citizens to organize, demonstrate and mobilize.

In the context of the citizen protests that broke out in the country known as "the Paraguayan March of 2021", as a result of the severe health, social and economic crisis and the inability of the government to respond to the shortage of supplies, medicines, the delay in the acquisition of vaccines for COVID-19 and corruption scandals, the police brutally repressed the peaceful demonstrations leaving one dead and dozens injured and detained. The case of one university student in particular, criminally prosecuted for participating in these demonstrations is just one of the many cases of criminalization of protest where social leaders are selectively persecuted in irregular and arbitrary processes for the purpose of disciplining and social demobilization.¹⁰⁷

According to the annual report of the Coordinator for Human Right of Paraguay (CODEHUPY)¹⁰⁸ on freedom of expression in Paraguay, verbal and/or physical attacks, harassment, destruction of press equipment and premises, as well as other forms of attacks on freedom of expression, persist against journalists and the media. Most of the cases are not prosecuted.¹⁰⁹

Good practices: A successful practice of transparency and access to public information is that of the Supreme Court of Justice, which makes available to the public a platform for monitoring paradigmatic cases of corruption that were selected, in a participatory manner, through recommendations from the Paraguayan lawyers' associations and following requests for information from both the media and the public.¹¹⁰

The Court of Criminal Appeals for Economic Crimes and Organized Crime also makes detailed reports on decisions handed down concerning economic crimes, organized crime and corruption available on its website.¹¹¹

Various actions implemented by SENAC such as the active transparency panel, the COVID-19 investment map, the citizen accountability manual, and the complaints panel are examples of good practices from the administration.¹¹²

¹⁰⁷ ABC Color (2021). Vivian Genes student persecuted by the ANR [published]. <https://www.abc.com.py/nacionales/2021/05/10/vivian-genes-estudiante-perseguida-por-la-anr/>; Ultima Hora (2021). Dirigente estudiantil denuncia que su familia es criminalizada por la ANR [published]. <https://www.ultimahora.com/dirigente-estudiantil-denuncia-que-su-familia-es-criminalizada-la-anr-n2933708.html>. Date accessed of both sources: 09 July 2021.

¹⁰⁸ Since 1999, the Human Rights Coordinating Committee of Paraguay has been preparing and publishing the Report on the Human Rights Situation in Paraguay, which serves as a reference for civil society organizations, the State, international organizations, citizens in general, and the media. [published]. <https://codehupy.org.py/informes-anuales/>. Date of access: July 09, 2021.

¹⁰⁹ Borja, Flavia and Ortiz, Gastón Pablo (2019). Freedom of expression in Paraguay: censorship and regression. On labor rights. In CODEHUPY (Ed.). Human Rights in Paraguay 2019. Asunción, Paraguay; Codehupy.

¹¹⁰ Supreme Court of Justice. Observatorio de causas judiciales [published]. <https://www.pj.gov.py/observatorio>. Date of access: 09 July 2021.

¹¹¹ Supreme Court of Justice, Resolutions on economic crimes and organized crime [published]. <https://www.pj.gov.py/contenido/2075-delitos-economicos-y-crimen-organizado/2075>. Access date: 09 July 2021.

¹¹² National Anticorruption Secretariat. Memoria Institucional 2019-2020 [published]. <https://nube.senac.gov.py/s/abwdn6AKgdw5N5k>. Access date: 09 July 2021.

Deficiencies: Restrictive conditions for the exercise of freedom of expression remain. Among the most problematic limitations to freedom of expression are judicial persecution and violence against journalists, as well as against civil society organizations and activists who make use of the media.

Regarding access to information, while the publication of data of competent authorities fulfills their obligation of active transparency, without synergy between them, and by not meeting the attributes for relevant and quality information, it is not entirely useful for its purposes, which are to effectively make information transparent under the highest standards and effectively serve for citizens to understand this data and so they can monitor them without too many obstacles.

4.1.10 Art. 11 - Judiciary and Prosecutor's Office

The 1992 national constitution recognizes the Supreme Court of Justice as the highest court of the Republic: "*The judiciary is the custodian of this Constitution. It interprets it, complies with it and enforces it. The administration of justice is the responsibility of the judicial branch, exercised by the Supreme Court of Justice, by the tribunals and by the courts established by this Constitution and the law*" (Art. 247).¹¹³

In a State governed by the rule of law, the independence of the judiciary is an essential requirement of its organization.¹¹⁴

The system for appointing members of the judiciary in the Constitution of Paraguay is regulated in Part II, Title II, Chapter III of the judiciary. The bodies involved in the appointment process are the Council of the Magistrature, the Supreme Court of Justice for the positions of judges, members of the court of appeals, prosecutors, public defenders and other public servants, and the Council of the Magistrature, the Chamber of Senators and the President of the Republic for the position of Minister of the Supreme Court of Justice.

For the position of State Attorney General, the process is carried out with the participation of the Council of the Judiciary, the President of the Republic and the Chamber of Senators.

As part of the implementation of transparency and anti-corruption policies, the Supreme Court of Justice implemented the Observatory of Judicial Cases related to paradigmatic cases of corruption, which provides the number and title of the case, the judicial office assigned, the prosecutors involved, the punishable acts defined, the type of action according to each defendant and the current status of each case.¹¹⁵

Although the implementation of electronic judicial procedures was launched already in 2016, they were gradually expanded to various jurisdictions, responding to the need to innovate, improve management, facilitate access to public information, and provide a follow-up to the proceedings in a safe way. This went hand in hand with the reduction of administrative costs,

¹¹³ National Constitution of the Republic of Paraguay [published]. <https://www.bacn.gov.py/constitucion-nacional-de-la-republica-del-paraguay>.

¹¹⁴ The independence of the Judiciary is guaranteed. Only the Judiciary may hear and decide on acts of a contentious nature. In no case may members of other branches of government or other officials assume judicial powers that are not expressly established in this Constitution [...]. Those who violate the independence of the Judiciary and its magistrates shall be disqualified from holding any public office for five consecutive years, in addition to the penalties established by law" (Art. 248).

¹¹⁵ Supreme Court of Justice. Observatorio de causas judiciales [published]. <https://www.pj.gov.py/observatorio>.

favoring transparency and reducing the negative impact on the ecology by reducing the use of printed material.¹¹⁶ The implementation of the Platform of Electronic Judicial Reports was also enabled for particular criminal records; credit process report; as well as for certificates and reports of ownership of the registry of motor vehicles.¹¹⁷

The fight against corruption crucially requires a judiciary that protects a rule of law, oriented to the protection of human rights. Paraguay has been repeatedly observed by international organizations regarding the situation of the independence of the judiciary,¹¹⁸ and in this sense, the civil society parallel report presented by the Human Rights Coordinator of Paraguay (CODEHUPY) to the Universal Periodic Review (third cycle, 2020-2021) refers, among other things, to the administration of justice and due process: "[...] *Despite commitments regarding the independence of justice, Paraguay failed to adopt measures to guarantee the independence and impartiality of the judiciary, to limit political interference and increase transparency in judicial processes. Recent independent reports rank the country as the fifth worst in the world in terms of judicial independence indicators. Paraguay has the fifth highest proportion of pre-trial detainees in the world and the highest proportion of pre-trial detainees in the Americas. Only two out of every ten inhabitants report having trust in the judiciary. In late 2017, a journalistic investigation uncovered an influence-peddling scheme involving judges and prosecutors, on the one hand, with senators and officials who headed the Jury for the Impeachment of Magistrates (JEM), the state body responsible for the dismissal of judges for poor performance of their duties. The incident led to the dismissal and prosecution of two senators, JEM officials and lawyers, but showed that the political practice in the State does not favor the independence of the judiciary. In June 2020, in the context of an amparo lawsuit concerning the disclosure of sworn asset declarations of high-ranking public officials, a group of seventeen government deputies and four deputies from the main opposition party made an improper intervention in the proceedings to prevent the Supreme Court of Justice from ultimately authorizing the disclosure of these documents. The Chamber of Deputies had approved a bill which, among other amendments to the regulations governing the control of illicit enrichment of public officials, established that the sworn asset declarations of public officials could only be made public on a case-by-case basis and by court order. The State must: Effectively guarantee the independence and impartiality of the judiciary, improving the transparency of judicial processes, accountability and limiting political influence for the appointment and dismissal of magistrates.*"¹¹⁹

The abusive exercise of the law by litigants, through incidents and appeals with merely delaying purposes¹²⁰, also represents an obstacle and in this sense, the timely intervention of

¹¹⁶ Supreme Court of Justice, Trámite Judicial Electrónico [published]. <https://www.pj.gov.py/contenido/1436-tramite-judicial-electronico/1669>. Access date: 09 July 2021.

¹¹⁷ Supreme Court of Justice. Electronic Judicial Reports [published]. <https://www.csj.gov.py/informesjudiciales/>. Access date: 09 July 2021.

¹¹⁸ United Nations. Human Rights, Office of the High Commissioner, Cases against judges in Paraguay harm independence of Judiciary, says expert [published]. <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23828&LangID=S>. Access date: 09 July 2021.

¹¹⁹ Coordinadora De Derechos Humanos del Paraguay (2020). Codehupy informed the United Nations about the situation of Human Rights for the review that Paraguay will submit next year [published]. <http://codehupy.org.py/codehupy-informo-a-naciones-unidas-sobre-situacion-de-dd-hh-para-el-examen-que-rendira-paraguay-el-proximo-ano/>. Date of access: 09 July 2021.

¹²⁰ Ultima Hora (2019) Urge to prevent golden nanny case from going unpunished [published]. <https://www.ultimahora.com/urge-evitar-que-el-caso-ninera-oro-quede-la-impunidad-n2849725.html>;

the Superintendence of Justice is fundamental. The lack of timely application of disciplinary measures has allowed the prescription and extinction of criminal cases related to acts of public corruption. A bill is currently under review that seeks to avoid the statute of limitations for this type of cases in the judicial sphere.¹²¹

More efficient control mechanisms must be established to avoid delays in fiscal and judicial investigations and the development of a real criminal policy to prevent and punish money laundering is essential. In this regard, a recent report of the Office of the Comptroller General of the Republic states that during 2020, 52 findings detected in audits that could constitute punishable acts with significant damage to the State's assets amounting to approximately G. 374,965,076,604¹²² (approximately USD 923,810,246) were referred to the Public Prosecutor's Office; however, to date there are no open investigative processes on these facts.¹²³

Freedom House, in a recent report (2020) states about Paraguay that: *"Corruption is a serious problem, and anti-corruption laws have been poorly implemented. Cases often languish for years in the courts without resolution, and many crimes go unpunished because of political influence in the judiciary" [...]. The judiciary is nominally independent, but money launderers, drug traffickers and corrupt politicians have co-opted local judicial authorities [...]*".¹²⁴

On occasions, the State has sufficient information on possible illicit acts, but only acts upon it when the different sources are analyzed together for proper cross-checking, a situation that requires intelligence work that allows for adequate coordination. Often, the facts that are evaluated by administrative controls are nothing more than illicit acts of great social impact and come to the knowledge of the appropriate agency only after an excessive amount of time, due to bureaucracy or overlapping regulations, which means that the information obtained is not what is required for the indictment and prosecution.

In the case of the Public Prosecutor's Office, having prosecutors specialized in anti-corruption¹²⁵, economic crime or organized crime is very useful in the fight against corruption, but they cannot do everything on their own; they need specialized technical assistance, both

Ultima Hora (2021). Trial of OGD and his son postponed due to new chicanery [published].

<https://www.ultimahora.com/postergan-juicio-oral-contra-ogd-y-su-hijo-nuevas-chicanas-n2927611.html>;

La Nación (2020). Patricia Samudio resorts to chicanery to avoid being brought to justice [published].

<https://www.lanacion.com.py/judiciales/2020/06/23/patricia-samudio-recurre-a-chicanas-para-evitar-someterse-a-la-justicia/>. Date of access of all three sources: 09 July 2021.

¹²¹ Legislative Information System. Technical Record of the File: Which amends Articles 187 - Fraud and 192 - Injury of confidence of the Criminal Code. Law No. 1160/97 modified by Law No. 3440/08 [published].

<http://silpy.congreso.gov.py/expediente/120609>. Date of access: 09 July 2021.

¹²² Equivalent to USD 923,810,246 according to the exchange rate established by the Central Bank of Paraguay on September 29, 2021, where the exchange rate of USD 1 is the equivalent of 6900.73 guaraníes.

¹²³ Ultima Hora (2021). Corruption cases, no progress [published]. <https://www.ultimahora.com/casos-corupcion-avances-n2950333.html>; ABC Color (2020). Ulises Quintana case has been at a standstill since December 2019 [published]. <https://www.abc.com.py/nacionales/2021/04/06/caso-de-ulises-quintana-esta-parado-desde-diciembre-del-2019/>. Date of access of both sources: 09 July 2021.

¹²⁴ Freedom House (2020). Paraguay [published]. <https://freedomhouse.org/country/paraguay/freedom-world/2020>. Access date: 09 July 2021.

¹²⁵ The unit specializing in economic crime and anti-corruption, transparency, money laundering and financing of terrorism has 14 units and a deputy prosecutor for a total of 15 prosecutors assigned to it.

internally - within the Public Prosecutor's Office - and externally - from other state institutions - to collaborate with the Public Prosecutor's Office in investigations.¹²⁶

Although there are codes of ethics for magistrates, judicial officials and prosecutors, which include criteria of suitability and integrity, the regulations alone are not sufficient to combat the perception of distrust in the administration of justice. They are considered selective and exclusive, where access to justice is generally conditioned by economic or political power, mainly affecting the most vulnerable sectors, including women in particular. Judges, prosecutors and justice operators show little sensitivity to the conflict, with excessive rigor in complying with bureaucratic procedures and excessive delays in resolving them.¹²⁷

The lack of credibility in the investigation processes is also largely due to the corruption scandals in which they have been involved from the highest levels of the Public Prosecutor's Office such as the former State Attorney General, who is being prosecuted for illicit enrichment and money laundering where a patrimonial damage of Gs. 3,764,317,044 is presumed (approximately US\$ 552,743.64).¹²⁸

Similarly, the current State Attorney General is permanently under threat of impeachment for alleged poor performance of functions related mainly to deficient investigation policies in acts of corruption of great social impact.¹²⁹

The SENAC's open data portal shows that out of 450 open criminal cases of corruption involving public officials, only 4 are in oral and public trial.¹³⁰

The Global Impunity Index ranks Paraguay among the countries with very high impunity (53.15/100) and recommends that a reform of the justice system be carried out to guarantee the administration of justice, promote respect for human rights and reject any tolerance of crime.¹³¹

In the chapter dedicated to Paraguay in its 45th Annual Report on Human Rights and Fundamental Freedoms, for the year 2020, the U.S. Department of State, states: *"Significant human rights problems include the following: [...], significant problems with the independence of the judiciary; violent intimidation of journalists by organized crime groups; widespread*

¹²⁶ Ultima Hora (2020). Citizen pressure helped Attorney General's Office investigate political corruption [published]. <https://www.ultimahora.com/presion-ciudadana-ayudo-fiscalia-investigar-la-corrupcion-politica-n2891329.html>. Date of access: 09 July 2021.

¹²⁷ E. Roa, Lawyer, member of the Coordinating Committee of Paraguayan Lawyers and Citizens' Movement "Somos Anti-Corruption Paraguay". Personal virtual communication, 20 February 2021.

¹²⁸ Ultima Hora (2020). Former Attorney General Javier Díaz Verón will know on July 9 if he goes to oral trial [published]. <https://www.lanacion.com.py/judiciales/2020/06/23/ex-fiscal-general-javier-diaz-veron-conocera-el-9-de-julio-si-va-a-un-juicio-oral/>. Date of access: 09 July 2021.

¹²⁹ ABC Color (2021). Impeachment of Sandra Quiñonez "is necessary to send a message" [published]. <https://www.abc.com.py/nacionales/2021/01/30/juicio-politico-a-sandra-quinonez-es-necesario-para-dar-un-mensaje/>; Ultima Hora (2021). Demonstration to demand the resignation of Sandra Quiñonez [published]. <https://www.ultimahora.com/manifestacion-exigir-la-renuncia-sandra-quinonez-n2925631.html>; Ultima Hora (2021). Quiñonez, protected by colorados, disappears without responding to criticism [published]. <https://www.ultimahora.com/quinonez-protegida-colorados-desaparece-responder-criticas-n2927175.html>. Date of access of all three sources: 09 July 2021.

¹³⁰ National Anticorruption Secretariat. Complaints Panel [published]. <https://paneldenuncias.senac.gov.py/#/>. Date of access: 09 July 2021.

¹³¹ Le Clercq Ortega, Juan Antonio and Rodríguez Sánchez, Gerardo (2020). Impunity scales in the world. 2020 global impunity index (IGI-2020). First Edition [published]. <https://www.udlap.mx/cesij/files/indices-globales/0-IGI-2020-UDLAP.pdf>. Access date: 09 July 2021.

*corruption in all branches and levels of government; lack of investigation and accountability for acts of violence against women, [...]. The government took steps to prosecute and punish low and mid-level officials who committed abuses, but at the same time there were widespread reports of impunity for members of the police and security forces”.*¹³²

Good practices: The strengthening of the Complaints Office, intervention through disciplinary actions, the request for reports from judges in order to monitor the status of their files in the framework of the fight against judicial delay, the implementation of public competitions in both the judicial branch and the Public Prosecutor's Office, and the implementation of new technologies for transparency in the Magistrates Council and the Impeachment Jury, allow for a more complete control of the decisions that are made.

Deficiencies: Both in the judiciary and in the Public Prosecutor's Office, the interference of political powers persists, whether to avoid investigations, shield officials or issue tailor-made resolutions. Threats persist with proceedings before the Impeachment Jury, or threats against their integrity for judges and prosecutors who intervene in cases of corruption and drug trafficking.

Additionally, the selective criminalization of community leaders, human rights defenders and journalists who investigate acts of corruption, without due process of law, is promoted as a means of intimidating them. Moreover, cases of major public corruption without diligent investigations increase the public sense of impunity.

4.1.11 Art. 12 - Private Sector Transparency

In 2019, SENAC implemented competitions in order to promote good practices in transparency, integrity and anti-corruption in the private sector, including non-governmental organizations, MSMEs, corporate companies and cooperatives.¹³³ The areas evaluated included transparency and integrity, accountability, citizen participation, internal oversight and training.

The National Integrity Plan 2021-2025¹³⁴ includes an activity of developing integrity systems in the various areas of society and the State. In this context, the ENIT initiated a process of public dialogue with the private, business, academic and cooperative sectors in 2021, in order to integrate an integrity policy in the private sector agenda.

The private sector has a fundamental role in the fulfillment of the Sustainable Development Goals, especially regarding Goal 16, for example, by developing a policy against harassment, abuse, intimidation or violence in the company and putting actions in place to comply with it, developing a code of ethics and evaluation and internal oversight programs in the organization to prevent and fight against all forms of corruption, promoting the training of all employees and suppliers in human rights and the fight against corruption and establishing mechanisms that allow all stakeholders to communicate possible non-compliance in these areas within the company or organization. In this sense, there are some successful examples of "Corporate

¹³² U.S. Department of State (2021). Country Reports on Human Rights Practices [published]. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/paraguay/>. Accessed: 09 July 2021.

¹³³ IP (2019). Anti-Corruption Secretariat organizes contest of good practices for the private sector [published]. <https://www.ip.gov.py/ip/secretaria-anticorrupcion-organiza-concurso-de-buenas-practicas-para-el-sector-privado/>. Date of access: 09 July 2021.

¹³⁴ National Anticorruption Secretariat. National Integrity and Transparency Plan (2021-2025) [published]. <https://nube.senac.gov.py/s/jRWRXY6nH8iKmMx#pdfviewer>. Date of access: 09 July 2021.

Social Responsibility" implemented by some local banks and private sector companies in favor of children and adolescents or environmental impact.¹³⁵

The lack of regulatory development that adequately regulates conflicts of interest - developed in more detail in section 4.1.5. of this report - is an important risk factor because the private sector can play an active role in public corruption, causing exchanges of favors that undermine the integrity of public policies, as identified by the SENAC itself in the National Integrity Plan.¹³⁶

Law No. 6355/19¹³⁷ requires shareholders and directors of State contractors to submit sworn assets and income declarations to the Comptroller's Office, in order to help prevent possible conflicts of interest. However, during the period of evaluation of this report, a hundred actions of unconstitutionality had been filed against the law with the argument that the law violates Article 104 of the Constitution, which establishes that the subjects obliged to declare their assets and income are civil servants, public employees and, in general, those who receive remuneration from the State. The immediate result was the suspension of the laws' effects for these suppliers until the actions of unconstitutionality are resolved. With the entry into force of this law, this obligation has been expressly extended to natural and legal persons who are contractors, concessionaires, associations and foundations that receive public funds, receive some type of consideration or are linked to the State in any way.¹³⁸

The sworn declarations of companies that are suppliers to the State are not publicly available, except for those that were awarded contracts under the pandemic emergency law, which are published on the website of the Office of the Comptroller General of the Republic (CGR).¹³⁹

Law No. 6446/2019 "Which creates the administrative registry of legal persons and structures and the administrative registry of beneficial owners of Paraguay"¹⁴⁰, was passed with the purpose of greater transparency of legal persons and structures in the country, as well as to combat tax evasion, money laundering, corruption and financing of terrorism. Its aim was to possibly have relevant, processed and updated data of all legal persons and structures and, above all, to save relevant information on beneficial owners. It created two "Compulsory Registers" for the purpose of incorporating transparency mechanisms in the organization of companies and legal structures. These registers are: 1) the Administrative Register of Legal

¹³⁵ Ultima Hora (2019). Certifican a 40 firmas con impacto social y ambiental [published]. <https://www.ultimahora.com/certifican-40-firmas-impacto-social-y-ambiental-n2842198.html>. Access date: July 09, 2021.

¹³⁶ National Anticorruption Secretariat. National Integrity and Transparency Plan (2021-2025) [published]. <https://nube.senac.gov.py/s/jRWRXY6nH8iKmMx#pdfviewer>, page 19. Date of access: 09 July 2021.

¹³⁷ Law No. 6355/19 "Amending articles 1°, 3°, 4°, 7°, 13 and 21 of Law No. 5033/13 [published]. <https://www.bacn.gov.py/leyes-paraguayas/9019/ley-n-6355-modifica-los-articulos-1-3-4-7-13-y-21-de-la-ley-n-503313->

¹³⁸ The Nation (2019). Greater transparency and control of the private sector will help development [published]. https://www.lanacion.com.py/negocios_edicionimpresa/2019/11/20/mayor-transparencia-y-control-a-sector-privado-ayudara-al-desarrollo/. Date of access: 09 July 2021.

¹³⁹ Office of the Comptroller General of the Republic. Proveedores del Estado [published]. <https://www.contraloria.gov.py/index.php/actividades-de-control/declaracion-jurada-de-bienes-publicadas/category/4977-proveedores-del-estado>. Date of access: 09 July 2021.

¹⁴⁰ Law No. 6446/2019 "Which creates the Administrative Registry of persons and legal structures and the administrative registry of final beneficiaries of Paraguay" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9116/ley-n-6446-crea-el-registro-administrativo-de-personas-y-estructuras-juridicas-y-el-registro-administrativo-de-beneficiarios-finales-del-paraguay>.

Persons and Legal Structures operating in the Republic of Paraguay; and 2) the Register of Beneficial Owners, both under the Ministry of Finance. The law provides for the compliance report to be publicly accessible through the provisions of the Law on Access to Public Information. However, the records themselves will be accessible only to State Agencies and Entities, as well as subjects that perform functions of prevention, investigation and punishment of punishable acts that may be carried out through the use or final effective control of a legal person or other legal structures. The Ministry of Finance may enable access for the purposes of online consultation exclusively for other tax authorities, administrative authorities, tax agents and jurisdictional bodies involved in the prosecution of money laundering, monetary offenses, tax evasion and financing of terrorism, and banking, financial, insurance, securities and pension supervision or superintendence.

The law was regulated by Decree No. 3241/2020 "By which Law No. 6446/2019 "Which creates the Administrative Registry of Persons and Legal Structures and the Administrative Registry of Beneficial Owners of Paraguay"¹⁴¹, through which the deadlines for the entry into force of the law were established and which was eventually extended for various reasons.¹⁴² The last extension recorded is the end of June 2021.

The General Directorate of Persons and Legal Structures and Beneficial Ownership, under the Ministry of Finance reported that until December 2020 there were 11526 exchanges of shares, 40017 registrations of persons and legal structures and 43025 registrations of beneficial owners.¹⁴³ The beneficial owners are those who exercise final control of a company or legal unit and in the event of non-compliance are liable to fines ranging from 50 to 500 minimum wages, among other penalties, such as the inability to issue new accounts, debt securities, make deposits, cancellation of the Single Taxpayer Registry (RUC).

Another important area that requires regulatory development are the so-called revolving doors where professionals from private companies move to positions of responsibility within the public administration, or vice versa, people working in public positions leaving the administration to join private companies, always within the same sector: health, industry, public works, etc. A recent example is that of the former president of the state cement company Industria Nacional del Cemento (INC), who since the end of his administrative period (2014-2018) is presiding over a private cement company. A CGR audit of the INC detected that, during the former president's administration, there was a waste of \$67 million of sovereign bonds (\$80 million), intended for the modernization of the plant to increase production to 90,000 bags per day, which was not implemented in reality. In addition, the CGR revealed that the cement company caused a damage of 15 million dollars, due to the reduction of prices in the sale of cement¹⁴⁴ and yet, to date, there is no investigation of this matter in the judicial sphere.

¹⁴¹ Decree No. 3241/2020 "Whereby Law No. 6446/2019, "Which creates the Administrative Registry of Persons and Legal Structures and the Administrative Registry of Final Beneficiaries of Paraguay" [published] [published]. <http://digesto.senado.gov.py/detalles&id=11093>.

¹⁴² IP (2021). Prolonged communication to the registry of persons and legal structures [published]. <https://www.ip.gov.py/ip/prorrogan-comunicacion-al-registro-de-personas-y-estructuras-juridicas/>. Date of access: 09 July 2021.

¹⁴³ Treasury Solicitor's Office [published]. <https://www.hacienda.gov.py/web-hacienda/index.php?c=773>. Access date: 09 July 2021.

¹⁴⁴ Ultima Hora (2019). Cartes' manager who left the INC in therapy will be in charge of cement company [published]. <https://www.ultimahora.com/gerente-cartes-que-dejo-la-inc-terapia-estara-al-frente-cementera->

In the field of the judiciary, the Judicial Ethics Office of the judiciary recently published its latest assessment prepared and approved by the Ibero-American Commission on Judicial Ethics, drafted by the magistrate of the Supreme Court of Panama, Hernán A. De León Batista, and by the former magistrate of the Supreme Court of Colombia, Fernando A. Castro Caballero. Referring to the inadequate relations that may arise between the judiciary and politics or between the judiciary and the independent legal profession, Castro Caballero states the following while making ethical proposals regarding the 'revolving doors': *"Revolving doors in the administration of justice should not be seen as isolated phenomena, but rather as the product of structural flaws in the constitutional architecture that make their existence possible. Therefore, without ignoring the fact that the proper ethical training of judges is the best insurance against this type of transitions that are harmful to judicial integrity, given that it is not possible to guarantee this high ethical standard for all those who aspire to be or are already servants of justice, the most advisable thing to do is to set reasonable and effective limits on the movement back and forth between politics, litigation, and the judiciary in the legal system itself."*¹⁴⁵

Good practices: The competitions of good transparency practices, promoted by SENAC as mechanisms to involve the private sector in strategies and practices to fight corruption, as well as the establishment of spaces for dialogue and the promotion of projects that seek to promote the incorporation of integrity incentive tools in private and public sector companies.

Deficiencies: Lack of regulatory development on conflicts of interest in the private sphere and the lack of regulation in relation to revolving doors.

4.1.12 Art. 14 - Measures for the Prevention of Money Laundering

According to the latest Basel Index report for 2020¹⁴⁶, Paraguay improved its score, but is still among the countries with the highest exposure to money laundering in the region, ranked 24th/141, with a score of 6.45 on a scale of 10 (highest risk for money laundering).

It is important to note that the creation and operation of government agencies such as SENAC, SEPRELAD or the National Secretariat for the Administration of Seized and Confiscated Assets (SENABICO), essentially respond to the recommendations of international financial organizations in view of the alarming publications on the perception of corruption.¹⁴⁷

Within the framework of the Fourth Round of Mutual Evaluations of GAFILAT, during the current year (2021), Paraguay is being evaluated by the Financial Action Task Force (FATF)

[n2806603.html](https://www.abc.com.py/edicion-impresaeconomia/2019/12/05/dejaron-en-crisis-a-la-inc-y-ahora-trabajan-para-cartes/); ABC Color (2019). They left INC in crisis and now work for Cartes [published]. <https://www.abc.com.py/edicion-impresaeconomia/2019/12/05/dejaron-en-crisis-a-la-inc-y-ahora-trabajan-para-cartes/>; La Nación (2019). Contraloría emite informe sobre el uso de los bonos soberanos en INC [published]. https://www.lanacion.com.py/negocios_edicion_impresaeconomia/2019/12/15/contraloria-emite-informe-sobre-el-uso-de-bonos-soberanos-en-inc/. Date of access of all three sources: 09 July 2021.

¹⁴⁵ Ibero-American Commission on Judicial Ethics [published].

<https://www.poderjudicial.es/cgpj/es/CIEJ/Dictámenes/>.

¹⁴⁶ Basel Institute Governance. Basel AML Index [published]. <https://baselgovernance.org/basel-aml-index/public-ranking>. Access date: 09 July 2021.

¹⁴⁷ In 2008, Paraguay was subjected to the third round of evaluations by GAFISUD (Financial Action Task Force of South America), today GAFILAT. The result of the GAFISUD evaluation had its consequences in the following years, one of them was the entry of Paraguay on the FATF's so-called "gray list" and the final report concluded that it was necessary to carry out a series of legal reforms in order to adapt to the requirements or recommendations of the Financial Action Task Force (FATF). These updates to the legal framework were implemented and made it possible to remove Paraguay from "gray list".

on compliance with the 40 recommendations for the fight against money laundering and terrorist financing, which could result in the country's return onto the 'gray list' of non-cooperating countries in the fight against money laundering.¹⁴⁸

Aiming to meet the requirements of this assessment, at least formally, and to have more tools in place to adequately fight money laundering and corruption, the Executive Branch enacted a package of 10 anti-corruption laws¹⁴⁹ during 2019 in relation to the provisions on money laundering, financing of terrorism and proliferation of weapons of mass destruction; to strengthen preventive actions, investigation, prosecution and punishment of such crimes, which in turn impact on generating greater transparency in public administration and in strengthening the fight against corruption linked to these types of crimes. The laws enacted are as follows:

- Law No. 6379 of October 1, 2019, which creates the jurisdiction on economic crimes and organized crime in the jurisdiction of the criminal court¹⁵⁰;
- Law No. 6396 of October 14, 2019, amending Article 46 of Law No. 5876/17 "On the Administration of Seized and Confiscated Assets"¹⁵¹;
- Law No. 6399, of October 9, 2019, which amends Articles 3 and 4 of Law No. 5895/2017, "Which establishes rules of transparency in the Framework of Companies Incorporated by Shares and Establishes Transitory Measures"¹⁵²;
- Law No. 6408, dated October 25, 2019, which amends Article 3 of Law No. 4024/2019, "Which Punishes The Punishable Acts Of Terrorism, Terrorist Association and Financing of Terrorism"¹⁵³;
- Law No. 6418 of October 28, 2019, which temporarily amends Article 253 of Law No. 1286/1998 of the "Code of Criminal Procedure"¹⁵⁴;
- Law No. 6430 of 18 November 2019, which prevents, criminalizes and punishes the punishable acts of transnational bribery and transnational bribery¹⁵⁵;

¹⁴⁸ ABC Color (2021). Paraguay ante examen de GAFILAT implicancias del eventual enlistado y perspectivas [published]. <https://www.abc.com.py/edicion-impres/suplementos/economico/2021/01/24/paraguay-ante-examen-de-gafilat-implicancias-del-eventual-enlistado-y-perspectivas/>. Access date: 09 July 2021.

¹⁴⁹ Secretariat for the Prevention of Money Laundering (2020). SEPRELAD states that the Government's political will to boost transparency is clear [published]. <https://www.seprelad.gov.py/seprelad-afirma-que-es-clara-la-voluntad-politica-del-gobierno-de-impulsar-la-transparencia-n62>; IP (2019). Anti-money laundering agency sees great progress by Paraguay in the area [published]. <https://www.ip.gov.py/ip/organismo-contra-el-lavado-de-dinero-ve-grandes-progresos-del-paraguay-en-el-area/>. Date access of both sources: 09 July 2021.

¹⁵⁰ <https://www.bacn.gov.py/leyes-paraguayas/9363/ley-n-6379-crea-la-competencia-en-delitos-economicos-y-crimen-organizado-en-la-jurisdicion-del-fuero-penal>.

¹⁵¹ <https://www.bacn.gov.py/leyes-paraguayas/9305/ley-n-6396-que-modifica-el-articulo-46-de-la-ley-n-587617-de-administracion-de-bienes-incautados-y-comisados>.

¹⁵² <https://www.bacn.gov.py/leyes-paraguayas/9358/ley-n-6399-modifica-los-articulos-3-y-4-de-la-ley-n-58952017-que-establece-reglas-de-transparencia-en-el-regimen-de-las-sociedades-constituidas-por-acciones-y-establece-medidas-transitorias>.

¹⁵³ <https://www.bacn.gov.py/leyes-paraguayas/9260/ley-n-6408-modifica-el-articulo-3-de-la-ley-n-40242010-que-castiga-los-hechos-punibles-de-terrorismo-asociacion-terrorista-y-financiamiento-del-terrorismo>

¹⁵⁴ <https://www.bacn.gov.py/leyes-paraguayas/9045/ley-n-6418-modifica-temporalmente-el-articulo-253-de-la-ley-n-12861998-del-codigo-procesal-penal>.

¹⁵⁵ <https://www.bacn.gov.py/leyes-paraguayas/9225/ley-n-6430-previene-tipifica-y-sanciona-los-hechos-punibles-de-cohecho-transnacional-y-soborno-transnacional>.

- Law No. 6431 of November 20, 2019, which creates the special procedure for the application of confiscation, special confiscation, deprivation of benefits and profits and autonomous confiscation¹⁵⁶;
- Law No. 6446 of November 29, 2019, which creates the administrative registry of persons and legal structures and the administrative registry of beneficial owners of Paraguay¹⁵⁷;
- Law No. 6452 of 29 November 2019, which amends several provisions of Law No. 1160/1997, "Penal Code" and its amendment Law No. 3440/2008¹⁵⁸;
- Law No. 6456 of December 9, 2019, approving the Treaty on the Prohibition of Nuclear Weapons¹⁵⁹;
- Law N° 6458 of December 2, 2019, which approves the framework agreement on cooperation between the States Parties of MERCOSUR and associated States for the creation of joint research teams¹⁶⁰;
- Law No. 6497 of December 26, 2019, which amends Provisions of Law No. 1015/1997, "Which Prevents and Represses the Illicit Acts Intended for the Legitimization of Money or Goods" and its Amendments Law No. 3783/2009¹⁶¹.

In spite of all the normative adaptation, structural difficulties have persisted for several decades, with drug trafficking and smuggling being the greatest threats in Paraguay and which require the involvement of many institutions such as the Public Prosecutor's Office and the judiciary.¹⁶²

Apart from the risk of losing international bank branches, following the GAFILAT assessment, it should be noted that the market for attracting foreign investment has become much more competitive in the context of the pandemic. Therefore, every detail is taken into account for any kind of capital movement. Thus, the image of the fight against money laundering takes on an even more important role than before, for which Paraguay needs to accelerate the strengthening of its institutions.

Good practices: The use of new technologies, such as the implementation of a software in SEPRELAD that determines and classifies suspicious operations reports of high, medium and low importance in a more efficient manner; and the regulatory adaptation that facilitates enforceability, are significant advances.

¹⁵⁶ <https://www.bacn.gov.py/leyes-paraguayas/9226/ley-n-6431-crea-el-procedimiento-especial-para-la-aplicacion-del-comiso-el-comiso-especial-la-privacion-de-beneficios-y-ganancias-y-el-comiso-autonomo>.

¹⁵⁷ <https://www.bacn.gov.py/leyes-paraguayas/9116/ley-n-6446-crea-el-registro-administrativo-de-personas-y-estructuras-juridicas-y-el-registro-administrativo-de-beneficiarios-finales-del-paraguay>.

¹⁵⁸ <https://www.bacn.gov.py/leyes-paraguayas/9058/ley-n-6452-modifica-varias-disposiciones-de-la-ley-n-11601997-codigo-penal-y-su-modificatoria-la-ley-n-34402008>.

¹⁵⁹ <https://www.bacn.gov.py/leyes-paraguayas/9181/ley-n-6456-aprueba-el-tratado-sobre-la-prohibicion-de-las-armas-nucleares>.

¹⁶⁰ <https://www.bacn.gov.py/leyes-paraguayas/9179/ley-n-6458-aprueba-el-acuerdo-marco-de-cooperacion-entre-los-estados-partes-del-mercosur-y-estados-asociados-para-la-creacion-de-equipos-conjuntos-de-investigacion>.

¹⁶¹ <https://www.bacn.gov.py/leyes-paraguayas/9095/ley-n-6497-modifica-disposiciones-de-la-ley-n-10151997-que-previene-y-reprime-los-actos-ilicitos-destinados-a-la-legitimacion-de-dinero-o-bienes-y-su-modificatoria-ley-n-37832009>.

¹⁶² La Nación (2021). Gafilat: Seprelad and the Attorney General's Office agree on joint actions to combat money laundering [published]. <https://www.lanacion.com.py/politica/2021/04/10/gafilat-seprelad-y-la-fiscalia-acuerdan-acciones-conjuntas-para-la-lucha-contr-el-lavado-de-activos/>. Date of access: 09 July 2021.

Deficiencies: The low conviction rate in drug trafficking, smuggling and corruption crimes, where it is evident that high levels of impunity persist.

4.2 Chapter V

4.2.1 Art. 52 and 58 - Anti-money laundering

The Secretariat for the Prevention of Money or Asset Laundering (SEPRELAD), is the government entity in charge of regulating the obligations, actions and procedures to prevent and impede the use of the financial system and other sectors of economic activity to carry out acts intended for money laundering and financing of terrorism.

SEPRELAD is governed by Law No. 1015/97 "Which prevents and represses unlawful acts aimed at money or assets laundering"¹⁶³ and its amendment Law No. 3783/09 "Which amends various articles of Law No. 1.015/97 "Which prevents and represses unlawful acts aimed at money or property laundering", by virtue of which it established the Financial Intelligence Unit (FIU) of the Republic of Paraguay and enjoys functional and administrative autonomy within the limits of the law and regulations.¹⁶⁴

SEPRELAD is also a founding member of the Group of Financial Action of Latin AMERICA (GAFILAT) together with Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Peru and Uruguay, through the signing of a Memorandum of Understanding, which established the group in Cartagena de Indias, Colombia, on 8 December 2000.¹⁶⁵

Currently, Paraguay is chairing the Group of Experts for the Control of Money Laundering (GELAVEZ) for the period 2020-2021, which entails the responsibility of planning the actions to be implemented in the more than 20 international delegations during the next three years.¹⁶⁶

The SEPRELAD Strategic Intelligence Unit has 16 technical analysts. The unit has a modern technological tool for operational and strategic intelligence work where the final result is the Financial Intelligence Report. Since 2019, the "Strategic Intelligence Note" has been incorporated in it, a product designed to share data in order to assist in preventive decision-making within the AML/CTF System (National Anti-Money Laundering and Combating the Financing of Terrorism System).¹⁶⁷

SEPRELAD receives suspicious transactions reports from the regulated entities established by law, regardless of their amount. In addition, in accordance with international standards, it receives objective information provided by the regulated entities, which, in accordance with

¹⁶³ See Law No. 1015/ 1997 "Preventing and repressing unlawful acts aimed at legitimizing money or goods".

¹⁶⁴ Law No. 3783/2009 "Which amends several articles of Law No. 1.015/97 ". Which prevents and punishes unlawful acts aimed at legitimizing money or goods" [published]. <https://www.bacn.gov.py/leyes-paraguayas/1439/ley-n-3783-modifica-varios-articulos-de-la-ley-n-101597-que-previene-y-reprime-los-actos-ilicitos-destinados-a-la-legitimacion-de-dinero-o-bienes>.

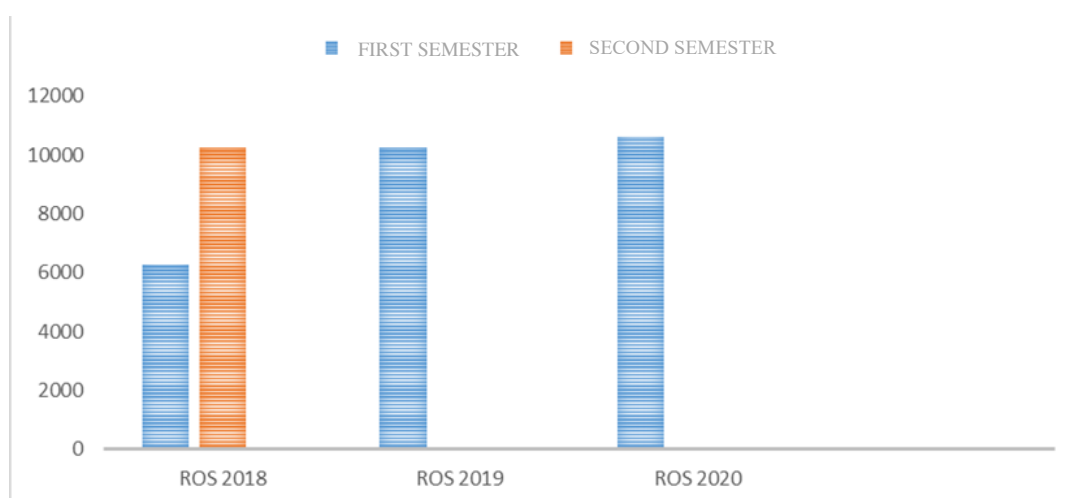
¹⁶⁵ Secretary of Money Laundering Prevention [published]. <https://www.seprelad.gov.py/gafilat-i27>. Date of access: 09 July 2021.

¹⁶⁶ Secretary for the Prevention of Money or Asset Laundering (2020). Paraguay assumes presidency of GELAVEX and ratifies commitment in the fight against money laundering and organized crime [published]. <https://www.seprelad.gov.py/paraguay-asume-presidencia-del-gelavex-y-ratifica-compromiso-en-la-lucha-contra-el-lavado-de-dinero-y-el-crimen-organizado-n269>. Date of access: 09 July 2021.

¹⁶⁷ Report submitted by the Office of Access to Information of SEPRELAD based on a request made on April 7, 2021.

the nature of their activities, provide useful information for monitoring risks. The prevention system in place is built based on the analysis of this information.

Register of Suspicious Transaction Reports (ROS)



Source: Prepared by the authors of this report, based on SEPRELAD management reports¹⁶⁸

The operational and/or strategic analysis of this information is forwarded to the competent authority, whenever there is evidence of money laundering or financing of terrorism or other predicate offences. From the information provided by the Access to Information Office, a total of 59 reports were submitted to different authorities in the first half of 2020, despite the fact that economic activity had decreased. These are the Public Prosecutor's Office, the Comptroller General of the Republic, the GAFILAT Asset Recovery Network (RRAG), Correo Egmont, SENAD, SENAC, SET, the Central Bank of Paraguay and the Ministry of Justice. In the second half of 2020, 27 reports were sent. In other words, a total of 86 reports were issued in 2020.

In addition, statistics obtained by SEPRELAD show that in all cases in which convictions were handed down for money laundering, a financial intelligence report was submitted by the SEPRELAD's Financial Intelligence Unit.

Furthermore, the Strategic Plan of the Paraguayan State (PEEP) to Combat Money Laundering (ML), Financing of Terrorism (FT) and the Proliferation of Weapons of Mass Destruction (WMD)¹⁶⁹ is the basis for the National AML/CTF System comprising both public and private institutions.¹⁷⁰

The global survey Statista Research Department on "Index of money laundering and terrorist financing risk in Latin America and the Caribbean in 2020", which was published in March 2021 and is based on publicly available sources, such as the FATF, Transparency International, the World Bank and the World Economic Forum, gives Paraguay a score of 6.45 where 0 is

¹⁶⁸ SEPRELAD. Informes de gestión [publicado]. <https://www.seprelad.gov.py/informes-de-gestion-in8>. Access date: 09 September 2021.

¹⁶⁹ Secretariat for the Prevention of Money or Asset Laundering. Plan Estratégico del Estado Paraguayo [published]. <https://www.seprelad.gov.py/plan-estrategico-del-estado-paraguayo-i47>. Date of access: 09 July 2021.

¹⁷⁰ See details of the institutions that make up the national system in Paraguay in the annex.

the best score and 10 the worst.¹⁷¹ The same report states that in 2019, Paraguay ranked as the country with the second highest risk of money laundering and terrorist financing in Latin America.

That same year, Brazilian authorities requested the extradition of former President Horacio Cartes (2013-2018) to answer for money laundering charges related to the Odebrecht scandal¹⁷²; however, during the current year (2021) the Regional Court of Rio de Janeiro annulled the process against him in that case.¹⁷³

In its report on its International Narcotics Control Strategy (2021), the U.S. Department of State includes a section on Paraguay where it states that despite the government's efforts, actions to combat money laundering are insufficient. It highlights that one of the vulnerabilities that facilitate money laundering is related to the large number of unregistered exchange offices, the frequent use of cash, the use of false information to register companies, lax regulation of import and export companies and casinos, weak border controls, corrupt government agents and insufficient supervision of a large volume of money transfers to Lebanon and China.¹⁷⁴

In Paraguay, money laundering comes not only from traditional economic crimes, such as the smuggling of goods¹⁷⁵, timber¹⁷⁶, and wild furs¹⁷⁷, but also from the high level of tax evasion¹⁷⁸ and new generation economic crimes such as piracy¹⁷⁹ and the production of false documents¹⁸⁰, not to mention organized crime such as the self-proclaimed Paraguayan People's

¹⁷¹ Statista Research Department (2020). Index of Money Laundering and Terrorist Financing Risk in Latin America and the Caribbean in 2020 [published]. <https://www.statista.com/statistics/817990/risk-index-money-laundering-terrorist-financing-latin-america/>. Access date: 09 July 2021.

¹⁷² ABC Color (2019). Emiten orden de prisión contra Horacio Cartes en Brasil [published]. <https://www.abc.com.py/nacionales/2019/11/19/emiten-orden-de-prision-contra-horacio-cartes-en-brasil/>; El País (2020). Un testigo del 'caso Lava Jato' compromete al expresidente paraguayo Horacio Cartes [published]. <https://elpais.com/internacional/2020-08-15/un-testigo-del-caso-lava-jato-compromete-al-expresidente-paraguayo-horacio-cartes.html>. Date of access of both sources: 09 July 2021.

¹⁷³ Ultima Hora (2021). Lava Jato: Desestiman proceso contra Horacio Cartes [published]. <https://www.ultimahora.com/lava-jato-desestiman-proceso-contra-horacio-cartes-n2941625.html>. Date of access: 09 July 2021.

¹⁷⁴ US Department of State (2021). Bureau of International Narcotics and Law Enforcement Affairs Report [published]. <https://www.state.gov/2021-incsr-volume-ii-money-laundering-as-submitted-to-congress/>. Date of access: 09 July 2021.

¹⁷⁵ ABC Color (2021). Contraband in January: US\$ 42 Million [published]. <https://www.abc.com.py/nacionales/2021/02/14/contrabando-en-enero-us-42-millones/>. Date of access: 09 July 2021.

¹⁷⁶ ADN Politico (2019). Prosecutor's office charges man for trafficking rolls [published]. <https://www.adndigital.com.py/fiscalia-imputa-hombre-trafico-rollos/>. Date of access: 09 July 2021.

¹⁷⁷ The Independent (2019). Cruelty as a profitable business [published]. <https://independiente.com.py/crueldad-como-negocio-rentable/>. Access date: 09 July 2021.

¹⁷⁸ La Nación (2020). At least 192 companies would have acquired false invoices in the alleged evasion scheme [published]. <https://www.lanacion.com.py/negocios/2020/09/07/al-menos-192-empresas-habrian-adquirido-facturas-falsas-en-el-presunto-esquema-de-evasion/>. Date of access: 09 July 2021.

¹⁷⁹ Ultima Hora (2019). Paraguay re-enters US piracy list [published]. <https://www.ultimahora.com/paraguay-vuelve-ingresar-lista-pirateria-eeuu-n2816171.html>. Access date: 09 July 2021.

¹⁸⁰ La Nación (2020). Extitular del Indert es investigado por producción de documentos no auténticos [published]. <https://www.lanacion.com.py/judiciales/2020/09/01/extitular-del-indert-es-investigado-por-produccion-de-documentos-no-autenticos/>. Date of access: 09 July 2021.

Army and the strengthening of important and highly dangerous terrorist gangs of Brazilian origin such as the First Capital Command (PCC).¹⁸¹

Paraguay shares a border with Argentina, Brazil and Bolivia - known as the Triple Frontier - hundreds of kilometers of these borders are difficult to access and even inhospitable terrain, where the lack of means of state authorities or the limited presence of the state apparatus itself in these areas, facilitates and allows criminal organizations to carry out illegal activities, especially drug trafficking.

Good practices: The SEPRELAD, in coordination with the Supreme Court of Justice, prepared a public report on typologies of money-laundering based on 9 final judgments issued by the Courts of the following punishable acts: swindling, breach of trust, production of non-authentic documents, drug trafficking, and criminal association. It sets out some of the most relevant cases in the field of money laundering between 2015 to 2019, describing the modalities used for the commission of the offence, together with the individualization of the preceding punishable acts and the warning signs that served as a basis to support the conducts of the convicted persons.¹⁸²

Deficiencies: The great challenge remains to effectively sanction those institutions where indications of money laundering are detected, not only in the administrative sphere but also in the judicial sphere with exemplary convictions in identified high-profile cases, which remain under investigation but without indictments or convictions.¹⁸³

There are paradigmatic cases of money laundering involving politicians and public authorities¹⁸⁴ where a sense of impunity with slow and bureaucratic investigations and the lack of exemplary convictions reinforces the theory of institutional weakness and lack of judicial independence.

4.2.2 Art. 53 and 56 - Measures for direct recovery of property

Law No. 5876/17¹⁸⁵ established the Secretariat for the Administration of Seized and Confiscated Assets (SENABICO). Article 53 provides for the application of international

¹⁸¹ Martens, J. (2020). Presencia y actuación del Primer Comando de la Capital (PCC): Implicancias políticas y sociales. *Revista jurídica - Investigación En Ciencias Jurídicas y Sociales*, 2(9), 59-75 [published]. <https://ojs.ministeriopublico.gov.py/index.php/rjmp/article/view/168>. Access date: 09 July 2021.

¹⁸² SEPRELAD/CSJ (2020). Money Laundering Typologies Report [published]. <https://www.seprelad.gov.py/userfiles/files/biblioteca/tipologias-paraguay.pdf>. Date of Access: 09 July 2021.

¹⁸³ ABC Color (2021). BCP ordenó sumario en BNF por supuestas irregularidades relacionadas al caso Messer [published]. <https://www.abc.com.py/nacionales/2021/02/15/bcp-ordeno-sumario-en-bnf-por-supuestas-irregularidades-relacionadas-al-caso-messer/>; ABC Color (2021). GAFILAT expects exemplary sentences for corruption and money laundering crimes [published]. <https://www.abc.com.py/nacionales/2021/01/13/gafilat-espera-condenas-ejemplares-para-los-crmenes-de-corrupcion-y-delitos-de-lavado/>. Date of access of both sources: 09 July 2021.

¹⁸⁴ ABC Color (2020). Almuerzo escolar: imputan al Ministro Rodolfo Friedmann y al Diputado Ever Noguera [published]. <https://www.abc.com.py/nacionales/2020/08/31/almuerzo-escolar-imputan-al-ministro-rodolfo-friedman-y-al-diputado-ever-noguera/>; Ultima Hora (2021). Miguel Cuevas' hearing is suspended for the fifth time [published]. <https://www.ultimahora.com/por-quinta-vez-se-suspende-audiencia-miguel-cuevas-n2942473.html>; Ultima Hora (2021). Prosecutor's accusation agrees with US argument to prohibit Ulises Quintana's entry [published]. <https://www.ultimahora.com/acusacion-fiscal-coincide-argumento-eeuu-prohibir-entrada-ulises-quintana-n2934901.html>. Date of access of all three sources: 09 July 2021.

¹⁸⁵ Law No. 5876/2017 "On the Administration of Seized and Confiscated Assets" [published]. <https://www.bacn.gov.py/leyes-paraguayas/9306/ley-n-5876-de-administracion-de-bienes-incautados-y-comisados>.

conventions on cooperation and legal or judicial assistance in matters of seizure and confiscation for the tracing, identification, recovery, repatriation and administration of assets, signed, approved and ratified by the State.

Paraguay uses the Asset Recovery Network (RRAG) of GAFILAT. The focal points are the Public Prosecutor's Office through its Specialized Unit for the Fight against Money Laundering and Terrorist Financing; the National Police and SEPRELAD.

Pursuant to Article 96 of the Criminal Code, autonomous confiscation is foreseen to prosecute the proceeds of money laundering even if the perpetrator is no longer convicted or cannot be convicted. In this regard, although this legal concept has not been optimally applied, the country itself detected that the problem was related to the lack of an adequate process, which has been remedied with the enactment of Law No. 6431/2019. This law created a special procedure for the application of confiscation, special confiscation, deprivation of benefits and profits and autonomous confiscation.

Currently, the first cases of confiscation of real estate from convictions in cases of economic crimes have been registered in favor of the State, in the name of SENABICO.¹⁸⁶ In 2021, the first auction of assets administered by SENABICO in the context of seizures resulting from organized crime¹⁸⁷ were conducted. SENABICO's reports on this are published and available to the public.

Asset recovery is an interdisciplinary task, involving State institutions, in support of the prosecutor who is the holder of the criminal action, and the judiciary to obtain sentences. In this sense, it is inter-institutional cooperation that contributes to good practices. Without it, the efforts undertaken by prevention institutions are isolated efforts.¹⁸⁸

Paraguay faces the fourth round of GAFILAT evaluations this year (2021), where some of the points to be evaluated are the efficiency and effectiveness of the sentences and years of convictions, and measuring the efficiency of what is being confiscated, and what the economic value of these assets is. Another objective of this evaluation is to limit and economically incapacitate organizations that launder money in order to prevent criminal organizations from infiltrating the legal economy and the country's politics. The Paraguayan State needs to structure these new tools focused on tax analysis and the analysis of financial intelligence in support of fiscal management.

Good practices: Given the complexity involved in investigating financial and organized crime, the creation of specialized courts represents a significant step forward.

¹⁸⁶ SEBANICO (2021). First property registered in the name of SEBANICO [published]. <https://www.senabico.gov.py/index.php/noticias/primer-inmueble-comisado-inscripto-nombre-de-la-senabico>. Date of access: 09 July 2021.

¹⁸⁷ SEBANICO (2021). AUCTION of assets administered by SEBANICO [published]. <https://www.senabico.gov.py/index.php/noticias/subasta-de-bienes-administrados-por-senabico>. Date of access: 09 July 2021.

¹⁸⁸ ABC Color (2021). Indifference or complicity of the prosecutor's office favors the advance of corruption [published]. <https://www.abc.com.py/edicion-impresa/editorial/2021/07/01/indiferencia-o-complicidad-de-la-fiscalia-favorece-el-avance-de-la-corrupcion/>. Date of access: July 09, 2021.

Deficiencies: It is necessary to invest greater economic resources to strengthen these specialized courts and the justice operators in order to give equal relevance to the investigation of assets as to those focused on the investigation for the attribution of criminal responsibility.

4.2.3 Art. 54 - Confiscation tools

It is important to note that article 20 of the National Constitution of Paraguay proscribes the penalties of confiscation and forfeiture.

In this context, one must differentiate between the legal terms of confiscation and forfeiture: Strictly speaking, confiscation is generally understood to be a principal penalty consisting of the deprivation of property, while forfeiture or banishment is the accessory penalty involving the loss or deprivation of the effects or proceeds of crime and the instrumentalities with which the crime was committed.

"In the context of Paraguayan criminal law, punishable acts have different patrimonial consequences: the penalty of fine and the patrimonial penalty are criminal sanctions, while on the other hand, the confiscation and the special confiscation or the deprivation of benefits constitute autonomous and additional consequences of the unlawful acts; specifically, when they occur to the detriment of the public treasury, they can be conceptualized as patrimonial consequences of the anti-juridical acts that damage the patrimony of the state; and in the case of other acts of corruption (without patrimonial content), the integrity and transparency of the exercise of public functions. It should be noted that these provisions are not exclusive to punishable acts of public corruption, but are applicable to all punishable acts provided for in the special part of the Criminal Code and special criminal laws."¹⁸⁹

Having said this, it is worth mentioning Article 96 of the Paraguayan Criminal Code which establishes the subsequent order and the autonomous order of confiscation: *"1° When it is not sufficient or not possible to execute the special confiscation order, because the presuppositions of Articles 91 and 94, paragraph 2, were given after it, the court may also subsequently order the confiscation of the substitute value; 2° When neither a criminal proceeding against a specific person nor the conviction of a specific person corresponds, the court shall decide on the disablement or confiscation according to the obligatory or discretionary nature provided by law, taking into account the other presuppositions of the measure. This shall also apply in cases where the court dispenses with the penalty or where a discretionary dismissal is appropriate".¹⁹⁰*

Law N° 6431/2019 "Which creates the special procedure for the application of confiscation, special confiscation, deprivation of benefits and profits and autonomous confiscation"¹⁹¹ repealed Law No. 4575/2012 which had provided very basic and incomplete rules for the implementation of these institutes and formulated a comprehensive procedure for their application. This is a step forward in the framework of strengthening the AML/CTF system.

¹⁸⁹ Fernandez, Rene. Public Corruption as a Determinant Crime of Money Laundering and the Recovery of ill-gotten assets. P. 380 in: Paraguay Commitment to Effectiveness. Current aspects of the anti-money laundering system and against the financing of terrorism, BCP. 2021.

¹⁹⁰ See Law N° 1160/1997 "Código Penal Paraguayo".

¹⁹¹ See Law N° 6431/2019 "Que crea el procedimiento especial para la aplicación del comiso, el comiso especial, la privación de beneficios y ganancias y el comiso autónomo".

4.2.4 Art. 51, 54, 55, 56 and 59 - International cooperation for the purpose of confiscation

Although there are no specific agreements with respect to asset recovery, Law No. 5876/17 "On the Administration of Seized and Confiscated Property"¹⁹², allows for the conclusion of bilateral and multilateral cooperation agreements to facilitate the administration of seized assets, in which case they must include rules on administration costs and the sharing of assets in joint operations (articles 52 and 53).

The Public Prosecutor's Office, through its Directorate of International Affairs, is responsible for sending and receiving so-called "spontaneous information" through which it informs the authorities of other countries of events that have occurred in national territory that may be of interest for future investigations.

In practice, Paraguay can share information spontaneously with other countries using the EGMONT Group, which Paraguay has been a part of since 1997.¹⁹³ These cases come to the attention of those interested in them from local prosecutorial investigations. The first step is the communication of this case by the prosecutor to the directorate and then the directorate forwards the information through the central authorities or directly between Public Prosecutor's Offices.

Domestic legislation also provides for the confiscation of assets of foreign origin through the offence of money-laundering or any other offence having equivalent effect. Law N° 2298/03 "Approving the United Nations Convention against Transnational Organized Crime", states in Article 13 on international cooperation for purposes of confiscation: "In the case of confiscation of assets of foreign origin through money laundering or any other offence having equivalent effect."¹⁹⁴ In the case of predicate offences committed abroad, the legal basis is the Paraguayan Criminal Code¹⁹⁵, which stipulates: "*Article 8.- Acts committed abroad against legal assets with universal protection: 1°) Paraguayan criminal law shall also apply to the following acts committed abroad:*

- 1. Acts punishable by means of explosives, as referred to in article 203, paragraph 1, subparagraph 1,*
- 2. Attacks on civil air and naval traffic, as defined in article 213,*
- 3. Trafficking in persons, provided for in article 129,*
- 4. Illicit trafficking in narcotic drugs and dangerous drugs, referred to in articles 37 to 45 of Law 1,340/88,*
- 5. Punishable offences against the authenticity of moneys and securities under articles 264 to 268;*
- 6. Genocide under article 319,*

¹⁹² See Law No. 5876/2017 "On the Administration of Seized and Confiscated Assets".

¹⁹³ With the creation of SEPRELAD, contacts with other Financial Intelligence Units (FIU) at the international level were initiated and recognition by the EGMONT GROUP as a regular member was achieved in 1997 on the occasion of the VI Plenary Meeting of the Group in Buenos Aires.

¹⁹⁴ Law No. 2298/03 "Approving the United Nations Convention Against Transnational Organized Crime" [published]. <https://www.bacn.gov.py/leyes-paraguayas/4971/ley-n-2298-aprueba-la-convencion-de-las-naciones-unidas-contr-la-delincuencia-organizada-transnacional>.

¹⁹⁵ Law No. 1160/1997 "Paraguayan Criminal Code" [published]. <https://www.bacn.gov.py/leyes-paraguayas/3497/codigo-penal>.

7. Punishable acts which the Republic, by virtue of an international treaty in force, is obliged to prosecute even if they have been committed abroad.

2º) Paraguayan criminal law shall apply only when the perpetrator has entered the national territory.

3º) Punishment under Paraguayan criminal law is excluded when a foreign court: has acquitted the perpetrator by a final judgment; or has sentenced the perpetrator to a penalty or measure involving deprivation of liberty, and the sentence has been executed, prescribed or pardoned".

With regard to implementation, it is possible for the authorities to order confiscation - an accessory sanction provided for in the Paraguayan Criminal Code - and to request enforcement from the country of origin of these assets under Law 2298/03 "Approving the United Nations Convention Against Transnational Organized Crime".

With regard to the existence and number of committed cases of crimes in this regard, these statistics are kept by bodies such as the Public Prosecutor's Office and the judiciary, and although the information should be accessible to the public, the investigative team for this report has not been able to access them.

4.2.5 Art. 57 - The return and disposal of confiscated property

SENABICO is the secretariat of the State, under the Presidency of the Republic, specialized in the reception, identification, registration, administration, maintenance, preservation and custody of seized, confiscated and/or declared abandoned assets of economic interest or of equivalent value for the State, in charge of preserving and maintaining their productivity or value, weakening the financial arm of organized crime to return them to society by financing projects for the prevention of punishable acts, rehabilitation of addicts and social reintegration.

It is also a support institution because by administering these assets or goods, it generates information that could be important for understanding the business linked to these organized crime structures. From the time an asset is seized until it can be confiscated, precautionary measures are used as measures to restrict the asset or set of assets being managed from being sold at the time of sentencing or confiscation. One of the main problems currently identified in the process is that the excessive delay - between bureaucratic procedures - means that by the time of registration in the name of the state, the assets have already been transferred to be sold.¹⁹⁶

The greatest degree of difficulty arises when assets of economic interest are located or identified that are the proceeds of crime but were integrated under a money laundering scheme in other parts of the world. In this regard, international cooperation is key.

Throughout the process of implementation of Chapter V of the UNCAC, there have been notable normative advances; however, the greatest weakness continues to be the efficient

¹⁹⁶ ABC Color (2021). No bienes comisados o incautados de casos de corrupción [published]. <https://www.abc.com.py/nacionales/2021/06/28/no-pasan-a-senabico-bienes-comisados-o-incautados-de-casos-de-corrupcion/>. Date of access: 09 July 2021.

investigation that allows for exemplary sentences. As long as impunity continues to prevail, all preventive efforts will continue to be just that: isolated efforts that do not alter the *status quo*.¹⁹⁷

¹⁹⁷ ABC Color (2020). Corruption and impunity: plagues without cure [published]. <https://www.abc.com.py/especiales/anuario-2020/2020/12/31/corrupcion-e-impunidad-pestes-sin-cura/>. Date of access: 09 July 2021.

5. Recent developments

The COVID-19 pandemic and the resulting health crisis revealed institutional weaknesses in all areas and revealed the crisis that the democracy is going through. Despite several advances, especially in access to information reforms and the improvement of procurement and acquisition systems, the challenges to achieve a culture of transparency and integrity are becoming more apparent.

The health system's extreme precariousness is the result of public and private corruption, the lack of political will to prioritize the allocation of resources in favor of quality public health, prioritizing instead sectoral and private interests to the detriment of public policies of social protection, which are almost nonexistent. In addition, a State of privileges has become evident, from the highly unequal tax system to the embezzlement of public funds with guaranteed impunity.

Between the months of February and March 2021, a series of citizen discontent was unleashed with greater force in the country in the face of the health, political, economic and social crisis. Numerous citizen complaints were registered¹⁹⁸, mainly from associations of health professionals¹⁹⁹, the education sector²⁰⁰ and the business sector²⁰¹, through public statements, and a series of mobilizations and demonstrations were held for about 15 days in the streets of the capital and throughout the country.

The common citizen's outcry has been against the corrupt political class and requesting the resignation or impeachment of President Mario Abdo Benítez²⁰² for poor performance of duties, and for the evidence of corruption in several public institutions reported by various media outlets.²⁰³

Similarly, the opposition presented an accusatory libel for the impeachment of the president and vice-president of the Republic, accusing the Executive Branch of poor performance of their duties and ineptitude in the management of the coronavirus pandemic; however, they did not gather enough votes to achieve this objective.²⁰⁴

¹⁹⁸ Ultima Hora (2021). 11 days of protest against the government of Mario Abdo [published]. <https://www.ultimahora.com/se-cumplen-11-dias-protesta-contr-el-gobierno-mario-abdo-n2931754.html>. Date of access: 09 July 2021.

¹⁹⁹ Ultima Hora (2021). Círculo de Médicos y gremios cuestionan presión política para acceder a camas [published]. <https://www.ultimahora.com/circulo-medicos-y-gremios-cuestionan-presion-politica-acceder-camas-n2932775.html>. Date of access: 09 July 2021.

²⁰⁰ La Nación (2021). Teachers march for lack of schools suitable to receive students in COVID mode [published]. <https://www.lanacion.com.py/pais/2021/03/02/docentes-marchan-por-falta-de-colegios-aptos-para-recibir-a-estudiantes-en-modo-covid/>. Date of access: 09 July 2021.

²⁰¹ La Nación (2021). UIP exige al gobierno que atienda los reclamos ciudadanos [published]. <https://www.lanacion.com.py/negocios/2021/03/07/uip-exige-al-gobierno-que-atienda-los-reclamos-ciudadanos/>. Date of access: 09 July 2021.

²⁰² ABC Color (2021). Citizenship does not give truce to the Government and once again yesterday demanded resignations [published]. <https://www.abc.com.py/nacionales/2021/03/10/ciudadania-no-da-tregua-al-gobierno-y-una-vez-mas-ayer-exigio-renuncias/>. Date of access: 09 July 2021.

²⁰³ The Independent (2021). Fed up with corruption call for demonstration [published]. <https://independiente.com.py/hartos-de-la-corrupcion-llaman-a-manifestacion/>. Access date: 09 July 2019.

²⁰⁴ La Nación (2021). Libelo acusatorio para enjuiciar a Abdo Benítez, pero no hay votos [published]. <https://www.lanacion.com.py/politica/2021/03/17/presentan-libelo-acusatorio-para-enjuiciar-a-abdo-benitez-pero-no-hay-votos/>. Date of access: 09 July 2021.

For his part, President Mario Abdo Benítez made changes in his cabinet after the strong citizen protests and in the midst of social and political tension, justifying his decision "for the sake of pacification".²⁰⁵ In this way, he appointed new authorities to head the Ministry of Public Health and Social Welfare, the Ministry of Education and Science, the Ministry of Women's Affairs and the Civil Cabinet of the Presidency of the Republic.

In this context of citizen mobilizations, in March 2021, a coalition of civil society organizations was formed that expressed public positions through the media²⁰⁶ and through statements and initiatives in social networks, against the alarming corruption registered in the public administration, denouncing the mismanagement of public resources, the great deficiencies of the health system, and urging citizens to participate, monitor and denounce irregularities.

This coalition is being coordinated by 16 civil society organizations, including Semillas para la Democracia, the Center for Judicial Studies, Technology and Community, Decidamos, the Federation of Neighborhood Entities (FEDEM) and Tesâi Reká Paraguay. Recently, on May 18, 2021, they convened a citizens' forum against corruption and impunity that was held with the participation of citizens, public authorities and representatives of the social, urban and rural sectors.²⁰⁷

²⁰⁵ France 24 (2021). Protests in Paraguay over handling of pandemic force changes in government [published]. <https://www.france24.com/es/am%C3%A9rica-latina/20210306-paraguay-mario-abdo-benitez-renuncia-ministros-protestas-covid19>. Access date: 09 July 2021.

²⁰⁶ Ultima Hora (2021). Organizations condemn corruption in the midst of a pandemic [published]. <https://www.ultimahora.com/organizaciones-condenan-la-corrupcion-plena-pandemia-n2938638.html>. Access date: 09 July 2021.

²⁰⁷ <https://www.facebook.com/215255301823728/posts/4648591665156714/>.

6. Recommendations

Prevention policies and practices:

- 1) Finalize the National Integrity, Transparency and Anti-Corruption Plan (2021-2025) with broad participation of civil society, academia, the media and the private sector.
- 2) Incorporate and develop a human rights-based approach in the implementation of anti-corruption strategies.
- 3) Integrate a gender approach in anti-corruption strategies in order to mainstream gender in anti-corruption policies, accompanied by budgetary allocations.
- 4) Strengthen the internal control systems of public institutions to prevent corruption.
- 5) Strengthen the tools for transparency and access to public information with a human rights, accessibility and quality perspective.
- 6) Modify the legislation establishing the publication of all sworn asset and income declarations via active transparency in open data format, including the declaration of interests.
- 7) Approve the draft Law on Integrity and Prevention of Conflicts of Interest in the performance of public functions, expressly regulating the so-called "revolving doors".
- 8) Approve the draft amendment to the Public Procurement Law with a view to strengthening transparency and controls.
- 9) Reject the plan to reform the Civil Service Law and initiate a participatory dialogue process for a comprehensive reform process of the administrative profession that contemplates at least the following aspects: more rigorous and systemic training processes on integrity and public ethics, the regulation of sources of background checks in senior management or trust appointments that are made without public competitions.
- 10) Regulate the mechanisms for whistleblowing and whistleblower protection in accordance with the provisions of the UNCAC and the IACC.
- 11) Adopt and implement the standards of the Open Government Partnership and the OECD for both open government and the simplification of the administration.
- 12) Strengthen the technological capacity of public institutions, with emphasis on those related to transparency and integrity, such as: interoperability, traceability of information, analysis of correspondence, execution and control of active and passive transparency, early warnings of possible fraud, traceability of sources of financing in political campaigns, compliance with the Law on Access to Information, among others.
- 13) Establish channels of dialogue between the private sector and the public sector to ensure a common approach to ethical behavior and the rejection of corrupt practices.
- 14) Adequately invest in technical and specialized infrastructure and technology in relevant agencies to enable them to process and share suspicious transaction data through blockchain technology.
- 15) Invest in and support those outside the public administration, especially academia and civil society, to analyze government data and propose improvements.
- 16) Promote mechanisms for active transparency of electoral candidates' profiles, including their judicial records.
- 17) Increase economic competition by reducing barriers to entry for small and medium-sized enterprises (SMEs), adopting and enforcing antitrust regulations, and

implementing a simple and progressive tax system that minimizes discretion, exemptions, and loopholes.

- 18) Guarantee the mechanisms of participation and freedom of expression of the media.
- 19) Pass laws and create institutions to regulate lobbying. These regulations should provide easy access to information on lobbying activity, including meetings, the issues addressed, the identification of lobbyists and the resources devoted to lobbying activity.
- 20) Strengthen the judicial system in terms of structure, human resources and inter-institutional coordination to combat public corruption and economic crime.
- 21) Effectively implement the Administrative Register of Persons and Legal Structures and the Administrative Register of Beneficial Owners of Paraguay.
- 22) Promote regulations that establish criteria of suitability and integrity to fill positions on the Council of the Judiciary, the Jury for the Prosecution of Magistrates, the Public Prosecutor's Office, the Economic Crimes and Anti-Corruption Unit/UDEA, establishing specialized profiles to fill those positions.
- 23) Strengthen the Office of the Attorney General of the Republic to promote civil proceedings to enforce the civil liability of authorities and officials who committed patrimonial damage due to unlawful acts (with fault or malice).

Anti-money laundering and asset recovery policies and practices:

- 24) Strengthen the specialized capacities of the justice operators in order to give equal relevance to patrimonial investigations as to the ones focused on criminal investigation in money laundering cases.
- 25) Implement online filing systems in all instances and districts of the Judiciary, including the specialized jurisdiction in economic crimes and organized crime.
- 26) Implement plans to reduce judicial delay.
- 27) Strengthen the application of the risk-based approach to AML/CFT supervision.
- 28) Promote the responsible use of financial and non-financial digital services, keeping a balance between access to such services and AML/CFT prevention measures.
- 29) Implement monitoring and transparency mechanisms for financial transactions, especially electronic and international transactions.
- 30) Ensure the transparent and effective use of the assets seized.
- 31) Strengthen mechanisms to ensure that recovered or seized assets are effectively transferred to the State.
- 32) Adapt asset recovery policies with a human rights and gender perspective aimed at repairing social harm.

7. Annex

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List of institutions that make up the national system in Paraguay

PUBLIC SECTOR: SEPRELAD; B.C.P; SIB - Superintendencia de Bancos, SIS - Superintendencia de Seguros.; Poder Judicial; DGRP - Dirección General de los Registros Públicos; Ministerio de Público; UDEA - Unidad Contra Delitos Económicos Anticorrupción; Unidad Antidrogas; Unidad Especializada de Lavado de Dinero y Financiamiento del Terrorismo; MI - Ministerio del Interior; Departamento Contra Delitos Económicos y Financieros de la Policía Nacional; Dirección General de Migraciones; SEPRINTE - Secretaría de Prevención e Investigación del Terrorismo; MH - Ministerio de Hacienda; SET - Sub Secretaría de Estado de Tributación; Abogacía del Tesoro; Servicio Nacional de Catastro;

CONAJZAR - Comisión Nacional de Juegos de Azar; CGR - Contraloría General de la República; MRE - Ministerio de Relaciones Exteriores; DGAE - Dirección General de Asuntos Especiales; DNA - Dirección Nacional de Aduanas; SENAD - Secretaría Nacional Antidrogas; INCOOP - Instituto Nacional de Cooperativismo; CNV - Comisión Nacional de Valores; SENAC - Secretaría Nacional de Anticorrupción; SENABICO - Secretaría Nacional de Administración de Bienes Incautados y Comisados; PGR - Procuraduría General de la República; SNI - Secretaría Nacional de Inteligencia

PRIVATE SECTOR: ASOBANC - Asociación de Bancos del Paraguay; Asociación de Casas de Cambios, APCS - Asociación Paraguaya de Compañías de Seguros; ADEFI - Asociación de Entidades Financieras; POJOAJU - Asociación de ONG'S del Paraguay; Colegio de Contadores del Paraguay; CAPEI - Cámara Paraguaya de Empresas Inmobiliarias; APEL - Asociación Paraguaya de Empresas Loteadoras; CEP - Colegio de Escribanos del Paraguay; CIRD - Centro de Información y Recursos para el Desarrollo.